

THE
COURT FEES' ACT:
(ACT .VII OF 1870.)

WITH COPIOUS NOTES OF
DECIDED CASES UPTO APRIL 1886 ;
WITH AN APPENDIX CONTAINING THE RULES,
CIRCULAR ORDERS, NOTIFICATIONS, OF THE HIGH COURTS IN INDIA ;
AND NOTIFICATIONS AND ORDERS OF THE GOVERNMENT OF INDIA
AND THE LOCAL GOVERNMENTS ;
AND FULL INDEX.

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Calcutta.

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PREFACE.

A COMPLETE edition of the Court Fees' Act is a want which is felt daily by every member of the legal profession, practising in the various Civil and Criminal Courts. There are many Circular Orders and Notifications on the subject, which, being scattered, are not quite easily accessible to him.

My object in bringing out this edition of the Act, has been to remove this want; and with a view to make it as complete as possible, I have collected all the rulings upon the Act itself, published since the passing of the Act upto April, 1886, and I have also inserted in the Appendix all the current important Rules, Orders, and Notifications of the Government of India and the Local Governments upto a recent date.

J. K. G.

THE COURT FEES' ACT, 1870.

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ACT NO. VII OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF
INDIA IN COUNCIL.

*(Received the assent of the Governor-General
on the 11th March 1870.)*

THE COURT FEES' ACT, 1870.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Court Fees' Act, Short title.
1870."

It extends to the whole of British India;

Extent of Act.

And it shall come into force on the first day of
April 1870.

Commence-
ment of Act.

2. [Repealed by Act No. XIV of 1870.]

CHAPTER II.

FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY TOWNS.

3. The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by Statute twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, section fifteen,

Levy of fees
in High
Courts on
their original
sides.

or chargeable in each of such Courts under No. eleven of the first, and Nos. seven, twelve, fourteen, sixteen, twenty and twenty-one of the second, schedule to this act annexed;

Levy of fees in Presidency Small Cause Courts. and the fees for the time being chargeable in the Courts of Small Causes at the Presidency Towns, and their several offices;

shall be collected in manner hereinafter appearing.

Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction. 4. No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction; or in the exercise of its extraordinary original criminal jurisdiction;

In their appellate jurisdiction. or in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court, or of a Division Court;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

As Courts of reference and revision. or in the exercise of its jurisdiction as a Court of reference or revision;

Unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Procedure in case of difference as to necessity or amount of fee.

5. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter, and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall

CHAPTER III.

be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the First Judge of such Court.

The Chief Justice shall declare who shall be taxing-officer within the meaning of the first paragraph of this section.

CHAPTER III.

FEEs IN OTHER COURTS AND IN PUBLIC OFFICES.

6. Except in the Courts hereinbefore mentioned, no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Fees on documents filed &c., in Mofussil Courts or in public offices.

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

Computation of fees payable in certain suits.

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)—according to the amount claimed :

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year :

for maintenance and annuities :

In a suit filed in the Court of a Subordinate Judge the plaintiff prayed, *inter alia*, for a decree for the payment annually, of the emoluments attached to a certain office, or their value stated in the plaint. This portion of the claim he valued, under cl. ii of section 7 of the Court Fees Act, at ten times the amount of the value claimed for one year. The value of the claim thus stated exceeded the pecuniary limit of the District Munsiff. The Subordinate Judge held that this portion of the claim was not actionable, in as much as the right to the emoluments was conditional upon services to be rendered, and did not fall under cl. ii of section 7 of the Court Fees Act, not being a fixed sum payable periodically, and therefore he held that the plaint was improperly valued, that the suit was not within

his jurisdiction, and that the plaint should be returned to be presented to the proper court:—*Held* that this order was right. *Krishna v. Navi Varma* I. L. R., 8 Mad 384

for other
moveable prop-
erty having
a market-
value:

iii. In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint—

iv. In suits—

for moveable
property of
no market-
value:

(a) for moveable property where the subject-matter has no market-value, as, for instance in the case of documents relating to title,

to enforce a
right to
share in joint
family prop-
erty:

(b) to enforce the right to share in any property on the ground that it is joint family property,

for a declara-
tory decree
and conse-
quential re-
lief:

(c) to obtain a declaratory decree or order, where consequential relief is prayed,

A brought a suit against B, a trustee and others to set aside a trust deed and to recover Rs. 2,50,000 the amount of the trust money, and valued his suit at Rs. 2,50,000. A obtained a decree. B appealed, and sought to affix on his memorandum of appeal a ten rupee stamp, under Art 17 (cl. 6) of Sch. II of Act VII of 1870.

Held that the duty payable on the memorandum of appeal was the same as that paid on the plaint in the suit. *Mohamed Masik v. Badsha Mahal Shaheba*, I. L. R., 10 Cal. 380.

Certain co-sharers of a village sued to have a lease of certain land, the joint undivided property of the co-sharers, which the other co-sharers had granted, set aside, and to have the buildings erected on such land by the lessees demolished, on the ground that such lease had been granted without their consent, without which it could not lawfully be granted. They valued the relief sought at Rs. 100. The value of the buildings of which they sought demolition was Rs. 3,000.

B sued N claiming *inter alia*, possession of certain land and to have certain buildings erected thereon by the defendants demolished.

Held, with reference to the abovementioned suits that in estimating their value for the purpose of the Court Fees' Act 1870, of the Bengal Civil Courts Act 1871, the value of the buildings which might have to be demolished should not be taken into account.

Held by Straight, Brodhurst and Tyrrell J. J. with reference to the first suit, that it was one for a declaratory decree in which consequential relief was prayed, and fell under sec. 7 Art. iv, cl. c. Court Fees' Act 1870, and such relief being valued at Rs. 100, had been properly instituted in the Munsif's Court. *Joogal Kishor v. Tale Sing*, I. L. R., 4, All. F. B. 320.

Held that a suit for a declaration of the Plaintiffs' proprietary right to certain moveable property attached in execution of a decree while in the possession of the Plaintiff, and for

cancelment of the order of the Court executing the decree made under sec. 246 of Act VIII of 1859 disallowing his claim to the property could be brought on a stamp of Rs. 20, and need not be valued according to the value of the property under attachment. *Gulzarilal v. Jadaun Rai*, I. L. R., 2 Ail. 63.

1 a suit under sec. 283, of Act X of 1877, for a declaration of her proprietary right to certain immoveable property attached.

VALUATION—*Subordinate Judge's power to make—Court Fees Act (VII of 1870), Sec. 7, Cl. iv (f)—Civil Procedure Code (Act XIV of 1882), Sec. 54, Cls. (a) and (b)—Practice—Procedure.* The plaintiffs brought a suit for an account, and approximately valued their claim at Rs. 16-15-0. The Subordinate Judge was of opinion that the claim was for recovery of money, and should have been valued at Rs. 1,000. He, therefore, called on the plaintiffs to make up the stamp to that required on this valuation; and the plaintiffs refusing he dismissed their suit under section 54 (b) of the Civil Procedure Code (Act XIV of 1882).

Held, that in any case the Subordinate Judge was wrong. If the suit was really one for an account, the plaintiffs were entitled to value the relief they sought approximately, as they had done; if it were not one for an account, but for recovery of money, still the Subordinate Judge had no power himself to value the relief sought, but should have called on the defendant to value the relief he sought, and then if he had thought such relief was undervalued, he could have applied section 54 (a) of the Code of Civil Procedure (Act XIV of 1882), and rejected the suit.

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value until the execution fee has been paid: *Govindas Kasindas v. Daya-bhai Savaichand*, I. L. R., 9 Bom. 22.

The stamp duty payable on an application to the District Court under sec. 265 of the Indian Contract Act (IX of 1872) for an account and winding up of partnership should be *ad valorem* fee under sec. 7, cl. iv. (f) of the Court Fees Act (VII of 1870) *Bhojilal v. Popatbhai*, I. L. R., 7 Bom. 125.

It was considered that these words "relief sought" whatever might be their meaning in this section did not necessarily comprehend the value of the matter in issue. *Ajmaskoer v. Musst. Luteefa* 18 W. R., 21.

In all such suits the plaintiff shall state the amount to which he values the relief sought, and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if, for the word 'claim,' the words 'relief sought,' were substituted.

v. In suits for the possession of land, houses, and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

for possession of land, houses and gardens:

where the subject-matter is land, and—

(a) where the land forms an entire estate or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

• ten times the revenue so payable :

The assessment of the Court Fee in a suit by a Subordinate tenure-holder to recover possession of a definite portion of an entire estate paying a permanently settled annual revenue to Government, should be made under the first part of subdivision (a) cl. 5 of sec. 7 of the Court Fees' Act. *Hubbul Hossein v. Mahomed Reza*, I. L. R., 8 Cal. 192 ; 10 C. L. R. 385.

(b) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled, but not permanently—
five times the revenue so payable :

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits :

but where no such profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood.

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above-mentioned—the market-value of the land :—

Proviso as
to Bombay
Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

(f) where the land is held on settlement for a period not exceeding thirty years and pays the full

assessment to Government—a sum equal to five times the survey-assessment ;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment ; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted :

Explanation.—The word ‘estate,’ as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

(e) Where the subject-matter is a house or garden—according to the market-value of the house or garden : for houses and gardens :

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed : to enforce a right of pre-emption :

Where in a suit to enforce a right of pre-emption, a decree was passed against the Vendees-defendants, and they appealed from the same on the grounds that they were entitled to receive from the plaintiffs pre-emptors a sum larger than that found by the Court of first instance to have been the purchase money, and also that the plaintiffs had estopped themselves from asserting the right by refusing to purchase,—*Held* that the nature of the suit was not changed in appeal, and that, on the contrary, the subject-matter of the dispute between the parties was the right of pre-emption, the value of which, for the purposes of Court Fee, was to be determined in manner directed by sec. 7 cl. (vi) of the Court Fees Act VII of 1870. *Ram Lakshun Rai v. Badun Rai* distinguished.

Where an appeal is preferred in a suit for pre-emption, on the ground that the right to pre-empt has or has not been established, as the case may be, no matter what other pleas may be taken, the value of the subject matter in dispute, for the purposes of the C. F. Act, must be determined as in terms provided in Art (vi) of sec. 7 of the Act.

Where the question in appeal relates solely to the amount to be paid by the pre-emptor, the Court Fee should be calculated *ad valorem* on the difference between the amounts alleged as the sale-price on the one side and the other. *Hafiz Ahmed v. Sobha Ram*, I. L. R., 6 All. 488.

fer interest
of assignee
of land-
revenue :

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint :

to set aside
an attach-
ment :

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached :

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest :

A person suing to set aside an attachment on land shall in no case be called upon to pay a higher fee than he would have to pay if he were suing for possession of the land. *Collector of Thanna v. Dadabhai Bomanji*, I. L. R., 1 Bom. 352.

to redeem :

ix. In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose

and in suits by a mortgagee to foreclose the mortgage, or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage :

In cases in which it is competent to the mortgagor to sue to recover a portion of the mortgaged property, the debt must be regarded as distributed over the whole property ; and, as regards the portion of the property sued for, "the principal money expressed to be secured" must be taken to be the proportionate amount of the debt for which such portion of the property is liable. *Balkrishna v. Nagvekar*, I. L. R., 6 Bom. 324.

for specific
performance :

x. In suits for specific performance

(a) of a contract of sale—according to the amount of the consideration :

(b) of a contract of mortgage—according to the amount agreed to be secured :

(c) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term :

CHAPTER III.

d) of an award—according to the amount or value of the property in dispute.

i. In the following suits between landlord and tenant:—

Between landlord and tenant.

a) for the delivery by a tenant of the counter-

part of a lease
OVER FEES ACT—Act VII of 1870, s. 7, CL. V. (c) (e)—*Paramba in Malabar, valuation of suit for.* On its appearing that a paramba in Malabar is not subject to land tax, but that a tax is levied on trees of certain kinds which may grow on it. *Held*, that a paramba must be regarded for the purposes of the Court Fees Act as a garden or as land which pays no revenue, according to the circumstances of each case.

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Audgthodan Moidin v. Pullambath Mamathy

the tenant has been illegally ejected by the

landlord, and

(f) for abatement of rent—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint.

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation, under any Act for the time being in force for the acquisition of land for public purposes, shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Fee on memorandum of appeal against order relating to compensation.

9. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section seven, paragraphs five and six, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Power to ascertain nett profits or market-value.

10. i. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its dis-

Procedure where nett profits or market-value wrongly estimated.

cretion refund the excess paid as such fee: but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated:

ii. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Section 54 of Act x of 1887, which directs that a plaint shall be rejected in certain cases, applies only to the initial stages of a suit before a plaint has been registered, whereas the application of sec. 10 of the Court Fees' Act which directs that a suit shall be dismissed in a certain case is not susceptible of restriction to any particular stage. *Valiya Kesava v. Suppannair*, I. L. R., 2 Mad. 308.

iii. Section one hundred and eighty of the Code of Civil Procedure shall be construed as if the words 'the market-value of any property or' were inserted after the word 'ascertaining' and as if the words 'or annual nett profits' were inserted after the word 'damages.'

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

11. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

The plaintiff brought a suit for possession, and for a certain sum as mesne profits, which he assessed at three times the annual rent paid to the defendants by tenants in actual possession of the land. He obtained a decree for possession, and the decree ordered that the amount of mesne profits due to him should be determined in the execution proceedings. On an investigation, a larger sum was found to be due to him for mesne profits than that claimed by him in his suit. The plaintiff therefore paid the excess fee as provided by para. 2, of sec. 11 of Act VII of 1870; but *held*, the amount of mesne profits recoverable by him must be limited to the amount claimed in the plaint. *Baboojan Jha v. Byjnath Dutt Jha*, I. L. R., 6 Cal. 474.

12. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal, shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit: Decision of questions as to valuation.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section ten, paragraph ii, shall apply.

Para. i.

An appeal lies against an order rejecting a plaint on the ground of its being insufficiently stamped. *Ajoodhya Persad v. Gunga Persad*, I. L. R., 6 Cal. 249.

Para. ii.

A suit was instituted, and tried on the merits in the Court of a Subordinate Judge without any objection being taken, either by the defendants or by the Court, that the plaint was insufficiently stamped. The defendants appealed on the merits and the District Judge, being of opinion that the stamp on the plaint was inadequate, called upon the plaintiff to pay the additional fee which would have been payable had the objection been taken and the question rightly decided in the Court of first instance. *Held* on second appeal, that the order of the Judge was properly made under sec. 12 cl. ii, Act VII of 1870. *Shama Soondori v. Horo Soondori*, I. L. R., 7 Cal. 348. 8 C. L. R., 528.

deciding the amount of stamps to be borne by the memorandum of appeal, the High Court is not bound by the decision of the Court of first instance as to the stamp on the plaint. *Matigavri v. Pranjibundas*, I. L. R., 6 Bom. 302.

The proper valuation in the case of an amended plaint is that ascertained at the date of the amendment and not that at the date of the original filing of the plaint. *Moro Vishanath v. Ganesh Vithal*, 10 Bom. H. C. Rep. 444.

The object of the proviso in sec. 12 Act VII of 1870 was to enable the Appellate Court to interfere for the protection of revenue in a case where a question of valuation might be raised and improperly decided. *Kalachand Sen v. Anund Kristo Bose*, 22 W. R. 423.

Sec. 12 of the Court Fees' Act prohibits appeals on questions relating to valuation for the purpose of determining the amount of a fee, but does not prevent a Court of appeal from determining whether or not consequential relief is sought in a suit, so that it may determine under what class of cases the suit falls for the purpose of the C. F. Act. *Chunia v. Ramdial*, I. L. R. 1 All. 360.

Nor does it prevent a party from appealing to the High Court and urging that the Court of first instance was wrong as to the particular schedule of fees by which the case was governed. *Gunga Monee Chowdrain v. Gopal Chunder Roy*, 19 W. R. 214.

Notwithstanding the provisions of sec. 12 of the Court Fees' Act VII of 1870, an order rejecting a [plaint on the ground of its being insufficiently stamped is appealable as a 'decree,' within the definition of decree in the C. P. Code as amended by Act XII of 1879. *Ajoodhya Prosad v. Gunga Prosad*, 6 C. L. R. 567.

Per Mahmood, J.—The powers conferred by secs. 54 (a) and (c) and 55, read with sec. 582, of the C. P. Code, or by sec. 12 of the C. F. Act (VII of 1870) read with cl. (ii) of sec. 10, are intended to be exercised before the disposal of the case, and not after it has been decided finally so far as the Court is concerned. *Mahadei v. Ramkissen Das*, I. L. R., 7 All. 528.

Refund of
fee paid on
memorandum
of appeal.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section three hundred and fifty-one of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:—

Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted

shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

14. When an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund of fee on application for review of judgment.

15. Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the plaint or memorandum of appeal as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. one, clause (b) or clause (d).

Refund where Court reverses or modifies its former decision on ground of mistake.

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part to fresh evidence which might have been produced at the original hearing.

When the case does not fall within sections 13, 14 and 15, and the applicant has paid too high a stamp duty, or thinks that he has done so, his proper course is to apply to the Government for a refund; the Court can give him no relief, unless it is expressly authorized to do so. *Zoyunoddeen* petitioner, 11 B. L. R. 370.

16. When any appeal is presented to a Civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit; and, on the hearing of such appeal, the respondent takes, under section three hundred and

Additional fee where respondent takes objection to unappealed part of decree.

forty-eight of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Where a Court decreed property in shares to members of a family, and one appealed, claiming a larger share, the stamp should be calculated on the value of the excess he claims supposing him to be content with the decree so far as it has given him a share—i. e. on the value of the relief he seeks. *Moro Vishanath v. Gonesh Vithal*, 10 Bom. H. C. Rep. 444.

A pauper respondent is not entitled to present objections at the trial of an appeal without payment of stamp duty. *Babajihari v. Rajaram Balal*, I. L. R. 1 Bom. 75.

Where a plaintiff prayed for a separation into two equal shares of the whole of the property to which she and defendant were equally entitled, and the Lower Court, instead of giving her the decree prayed for, decreed to her joint and undivided possession of her half share,—Held that plaintiff as respondent on the appeal of defendant, was entitled under sec. 348, Act VIII, to re-assert her claim to a decree for possession in severalty, without paying an additional fee under sec. 16, Act VIII of 1870, which applied only where an increase of land or money would be the result. *Bissonath Chatterjee v. Madhub Monee Debee*, 15 W. R. 511. But see 24 W. R. 179.

Multifarious suits.

17. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaintiffs or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section nine.

For the purposes of determining the stamp fee payable on an appeal to the High Court, in a suit for possession and for mesne profits, the claim for possession and mesne profits is to be taken as one entire claim. I. L. R., 8 Cal. 593. *Kishori Lal Roy v. Sharut Chander Mozumdar*. Reference under sec. 5 of Act VII of 1870. *Chedi Lal v. Kirath Chaud*, I. L. R., 2 All. 682 dissented from.

A to whom a certificate of administration in respect of the property of a minor had been granted, in succession to B, whose certificate had been revoked, sued B claiming the

delivery of specific moveable property of various kinds belonging to the minor, which had been intrusted to B, and B detained, or the value of each kind of property as compensation in case of non-delivery. *Held* that the suit did not embrace "distinct subjects" within the meaning of S. 17 of the Court Fees' Act 1870, and the Court Fees' payable in respect of the plaint in the suit should be computed under cl. sec. 7 of that Act according to the total value of the claim. *Amar Nath v. Thakur Das*, I. L. R. 8 All. 131.

The rule laid down in sec. 17 of the Court Fees' Act regarding multifarious suits is subject to the proviso at the end of Art I, Sch. I of that Act, and the maximum fee leviable on the plaint or memorandum of appeal in such a suit is under the proviso Rs. 3,000. *Baghobir Sing v. Dharm Kuar*, I. L. R., 3 All. 108.

In a suit for possession of certain immoveable property, and for mesne profits, the claim was laid at Rs. 1,24,997, being Rs. 64,997 as representing the value of the land, and Rs. 60,000 as the amount of mesne profits, the plaintiff in the Court of first instance having recovered only portion of the land valued at Rs. 3,395 on appeal deducting that sum from the original claim proposed to pay stamp duty on Rs. 1,18,600 as an entire sum.

Held that the claim for mesne profits, was not to be considered as a distinct cause of action from the claim to the land within the meaning of section 17 of the C. F. Act VII of 1870, and that the stamp duty was payable upon the entire sum. *Kishorilal Roy v. Shorut Chander Mozumdar*. F. B. 10 C. L. R. 359.

18. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provision of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment. Written examinations of complainants.

19. Nothing contained in this Act shall render the following documents chargeable with any fee:— Exemption of certain documents.

i. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army not in civil employment:

ii. Declarations mentioned in section one-hundred and eighteen and section one-hundred and sixty-four of the Code of Civil Procedure.

iii. Written statements called for by the Court after the first hearing of a suit.

A written statement of his case, tendered by a party to a suit at any time before or at the first hearing of the suit, is not liable to any Court Fee, and may be written on plain paper. (Sec. 110 of Act X of 1877.)

A written statement called for by the Court after the first hearing is also exempt from stamp duty (section 19 of Act VII of 1870). *Nagu v. Yeknath*. I. L. R., 5 Bom. 400.

A written statement, filed by a defendant in a civil suit at the first hearing, does not, under the existing law, require a Court Fee Stamp. *Oberji Ali v. Kadir Mahomed*, 12 C. L. R. 367.

iv. Plaint presented to a Military Court of Requests and petition for execution of a decree of such Court.

v. Plaints in suits tried by Village Munsiffs in the Presidency of Fort St. George.

vi. Plaints and processes in suits before District Panchayats in the same Presidency.

vii. Plaints in suits before Collectors under Madras Regulation XII of 1816.

viii. Probate of a Will, Letters of administration and Certificate mentioned in the first schedule to this Act annexed, No. twelve, where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.

ix. Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

x. Application relating to a supply for irrigation of water belonging to Government.

xi. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled but not permanently.

xii. Application for service of notice of relinquishment of land or of enhancement of rent.

xiii. Written authority to an agent to distrain.

xiv. First application (other than a petition containing a criminal charge or information), for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

xv. Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.

xvi. Petition, application, charge, or information respecting any offence, when presented, made or laid to or before a Police officer, or to or before the Heads of Villages or the Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

A Judgment debtor, whilst in custody applied to the court under chapter XX of the Civil Procedure Code, to be declared an insolvent. The application was refused, and the Judgment debtor appealed against the order, rejecting his application. No court fee was affixed to the memorandum of appeal. Held that no Court Fee was leviable under CL 17 of s 12 of the Court Fees Act. *Kali Prosad Bannerjee V Gishobh and Co.* I. L. R 10 Cal. 61

xviii. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer or an officer or servant of a Railway Company.

xix. Application for permission to cut timber in Government forests, or otherwise relating to such forests.

xx. Application for the payment of money due by Government to the applicant.

xxi. Petition of appeal against the chaukidari assessment under Act No. XX of 1856, or against any municipal tax.

xxii. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.

xxiii. Petitions presented to the Special Commissioner appointed under Bengal Act No. II of 1869 (to ascertain, regulate and record certain tenures in Chota Nagpur).

xxiv. Petitions under the Indian Christian Marriage Act 1872, sections forty five and fifty-eight.

CHAPTER IIIA.†

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

10A. Where any person, on applying for the probate of a will or letters of administration, has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority of the Province in which the probate or letters has or have been granted,

Relief where
too high a
Court-fee has
been paid.

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may—

(a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled ;

(b) substitute another stamp for denoting the Court-fee which should have been paid thereon ; and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.*

19B. Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount of value of the estate, reduces the same, to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less Court-fee to be paid on the probate or letters of administration granted in respect of such estate, than has been actually paid thereon under this Act, .

Relief where
debts due from
a deceased
person have
been paid out
of his estate.

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time

for making the claim as may appear to be reasonable under the circumstances.*

Relief in case
of several
grants.

19C. Whenever such a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of same property belonging to the same estate;

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates de-
clared valid as
to trust-pro-
perty though
not covered by
Court-fee.

19D. The probate of the will, or the letters of administration of the effects, of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court-fee was paid on such probate or letters of administration.†

Provision for
case where too
low a Court-
fee has been
paid on pro-
bates, &c.

19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court-fee thereon, the Chief Controlling Revenue Authority of the Province in which the

* From 55 Geo. III, c. 184, s. 31.

† 42 Geo. III, c. 149, s. 35

probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full Court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper Court-fee, without any deduction of the Court-fee originally paid on such probate or letters:

. Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a Court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.*

19F. In case of letters of administration on which too low a Court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid, until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.†

Administrator to give proper security before letters stamped under section 19 E.

* 55 Geo. III, c. 184, s. 41.

† 55 Geo. III, c. 184, s. 42.

Executors,
&c. not paying
full Court-fee
on probates,
&c., within six
months after
discovery of
underpayment.

19G. Where too low a Court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the first day of April 1875, or after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the Court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand of rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court-fee.*

Sections 19A
to 19G applied
to certificates
under Acts XL
of 1858 and
XX of 1864.

19H. The provisions of sections 19A to 19G (both inclusive) shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of the Fort William in Bengal) or Act XX of 1864 (for making better provision for the care of the persons and property of Minors in the Presidency of Bombay) and to the holders of such certificates.

CHAPTER IV.

PROCESS FEES.

Rules as to
costs of pro-
cesses.

20. The High Court shall, as soon as may be make rules as to the following matters:—

i. the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction:

ii. the fees chargeable for serving and executing processes issued by the Criminal Courts established within such limits in the case of offences other than offences for which Police officers may arrest without a warrant; and

* 55 III, c. 184, s. 43.

iii. the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time alter and add to the rules so made.

All such rules alterations and additions shall, after being confirmed by the Local Government, and sanctioned by the Governor General of India in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

21. A Table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

Table of process fees.

22. Subject to rules to be made by the High Court and approved by the Local Government and the Governor General of India in Council,

Number of peons in district and subordinate Courts.

Every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

and for the purposes of this section, every Court of Small Causes established under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature) shall be deemed to be subordinate to the Court of the District Judge.

Number of peons in Mofussil Small Cause Courts.

Number of peons in Revenue Courts. 23. Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the Local Government and the Governor General of India in Council, every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

Process served under this chapter to be held process served under Civil Procedure Code. 24. Every process served or executed under this chapter shall be held to be a process within the meaning of section one hundred and eighty-eight of the Code of Civil Procedure, and of section two of Act No. XXIII of 1861 (*to amend Act VIII of 1859*).

CHAPTER V.

OF THE MODE OF LEVYING FEES.

Collection of fees by stamps.

25. All fees referred to in section three or chargeable under this Act shall be collected by stamps.

Stamps to be impressed or adhesive.

26. The stamps used to denote any fee chargeable under this Act shall be impressed, or adhesive or partly impressed and partly adhesive, as the Governor General of India in Council may, by notification in the *Gazette of India*, from time to time direct.

Rules for supply, number, renewal and keeping accounts of stamps.

27. The Local Government may, from time to time, make rules for regulating—

- (a) the supply of stamps to be used under this Act,
- (b) the number of stamps to be used for denoting any fee chargeable under this Act,
- (c) the renewal of damaged or spoiled stamps, and
- (d) the keeping accounts of all stamps used under this Act :

Provided that, in the case of stamps used under section three in a High Court, such rules shall be

made with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

28. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped. Stamping documents inadvertently received.

But if any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

The powers conferred by S. 28 of the Court Fees Act, cannot be exercised by an order passed after the decision of the case to which the question of the payment of court fees relates, and, even assuming that they can be so exercised, such an order, though it may be subject to such rules as to appeal or revision as the law may provide, cannot be given effect to by making insertions in an antecedent decree.

Mahadei v. Ramkissen Das, I. L. R. 7 ALL 528.

29. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp. Amended document.

30. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled. Cancellation of stamp.

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the

amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER VI.

MISCELLANEOUS.

Repayment
of fees paid
on applica-
tions to Cri-
minal Courts

31. i. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which Police officers may arrest without warrant, is presented to a Criminal Court the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

ii. In the case mentioned in section eighteen, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

iii. When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

iv. All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

A magistrate having under s. 22 of the Cattle Trespass Act 1871, adjudged, a seizure of cattle to be illegal, directed the captor under s. 31 of the Court Fees Act, 1870 to pay the complainant the costs of the stamp and process fees incurred in prosecuting the complaint:

Held that section 31 of the Court Fees Act did not apply.

Shaik Hussan v. Sanjivi I. L. R. 7 Mad., 345.

An order to repay a fee under Sec. 31 of Act VIII of 1870 is an integral part of the sentence, and the fees should be treated

as fine imposed by the Court and may be retained in deposit pending an appeal where an appeal lies. 5 M. H. R. 28.

Amend-
ments of Act
VIII of 1859,
sections 308,
309, 371 373.

32. The Code of Civil Procedure, sections three hundred and eight and three hundred and nine, shall be read as if, for the words 'stamp-duty' and 'stamps,' the words and figures 'fees chargeable under the Court Fees Act, 1870,' were substituted; section three hundred, and seventy-one of the same Code shall be read as if, for the words 'a stamp of the value,' the words 'the payment of the fee,' were substituted; and section three hundred and seventy-three of the same Code shall be read as if, for the words 'on a stamp paper of the value,' the words 'and shall be chargeable with the fee,' were substituted; and as if, for the words for the stamps,' the words 'the fees,' were substituted.

And the Indian Income Tax Act, section twenty shall be read as if, for the words 'the value' of the said stamp,' the words 'the fee on the petition,' were substituted.

33. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section four or section six shall be deemed to prohibit such filing or exhibition.

Admission
in criminal
cases of docu-
ments for
which proper
fee has not
been paid.

34. In the General Stamp Act, 1869, section forty-eight shall be read as if, for the words and figures 'Act No. XXVI of 1867 (to amend the law relating to Stamp Duties),' the words and figures 'The Court Fees Act, 1870,' were substituted.

Rules for sale
of stamps.

The sale of Court fee stamps without a license is not an offence. *Empress v Jallu*. I. L. R., 4 All 216.

35. The Governor General of India in Council may from time to time, by notification in the Gazette of India, reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in

Power to
reduce or
remit fees.

the first and second schedules to this Act annexed,*

and may in like manner cancel or vary such order

Saving of fees to certain officers of High Courts. 36. Nothing in chapters II and V of this Act applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

* In exercise of this power fees on certain documents have been remitted, vide appendix.

Court Fees.
SCHEDULE I.
Ad valorem fees.

29

NUMBER.	PROPER FEE.
1. Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any Civil of Revenue Court, except those mentioned in section three.	When the amount or value of the subject-matter in dispute does not exceed five rupees ... six annas.
	When such amount or value exceeds five rupees, For every five rupees or part thereof, in excess of five rupees, up to one hundred rupees.. six annas.
	When such amount or value exceeds one hundred rupees, For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees ... twelve annas.
	When such amount or value exceeds one thousand rupees, For every one hundred rupees or part thereof, in excess of one thousand rupees, up to five thousand rupees five rupees.
	When such amount or value exceeds five thousand rupees, For every two hundred and fifty or part thereof, in excess of five thousand rupees, up to ten thousand rupees ... ten rupees.
	When such amount or value exceeds ten thousand rupees. For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees ... fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees ... twenty rupees.

* To ascertain the proper fee leviable on the institution of a suit, see the table annexed to this schedule.

SCHEDULE I—continued.

Ad valorem fees.

NUMBER.		PROPER FEE.
2. <i>Plaint, &c.—</i> (continued):	When such amount or value exceeds thirty thousand rupees, For every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees. ...	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees, For every five thousand rupees, or part thereof, in excess of fifty thousand rupees ...	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees. . .	

An application for the winding up by the court, of the business of a firm after the termination of partnership, under Sec. 265 of the Indian Contract Act (IX of 1872), whatever it be called, is essentially a plaint, and must be paid for in fees at the same rate as any other plaint for an account extending to a like amount of valuation.

Eraksha Dhanjiseti V. Adarja I. L. R., 7 Bom 535.

Where excess stamps had been filed in consequence of an over valuation of the appeal, the surplus amount was ordered to be refunded.

In the matter of *G. H. Grant* petitioner—14 W. R. 47.

No refund of stamp duty can be allowed when a suit is compromised pending the hearing of an appeal preferred.

Land Mortgage Bank of India v G. P. Methus 2 B. L. R. App. 96.

2. *Plaint or memorandum of appeal in a suit for possession under Act No. XIV of 1859 (to provide for the limitation of suits), section fifteen.*

3. *Repealed by Act No. VIII of 1871.*

A fee of one half the amount prescribed in the foregoing scale.

Court Fees.
SCHEDULE I—continued.
Ad valorem fees.

31

NUMBER.		PROPER FEE
4. Application for review of judgment if presented on or after the ninetieth day from the date of the decree.		The fee leviable on the plaint or memorandum of appeal.

When a Plaint or memorandum of appeal comprises a number of claims and a portion only of such claims has been allowed by the judgment, the party seeking review should be required to stamp his application with a fee sufficient to cover the amount of the claims in regard to which he wishes the court to review its Judgment; Act VII of 1870 Sch. 1 arts 4 and 5. In re Monohur G. Tambekar I. L. R. 4 Bom 26.

An application for a new trial in a Small Cause Court under s. 21 of Act XI of 1869 is not an application for a review, but falls under schedule 11 art 1. (a). Chotilal Jamnadas v Bulakidas 7 Bom H. C. Rep. A. J. 109.

An application for review of Judgment alluded to in sch 1 arts 4 and 5 Act VII of 1870 does not include an application for a new trial in a Mofussil Small Cause Court.—Gopee Nath Roy V. Ramjoy 14 W. R. 249.

Where an applicant for review is not informed at the time of his application that his petition is insufficiently stamped, he cannot at the time of hearing be refused permission to make up the proper valuation.

Shazada Fokeruddin Ahmed 15 W. R. 278.

Stamp duty paid in on a petition of the nature of an application for review, may be refunded where there is no final decision.

Prosonno Chunder Roy V. Nobo Kristo Chatterjee, 18 W. R. 434.

5. Application for review of judgment if presented before the ninetieth day from the date of the decree.		One-half of the fee leviable on the plaint or memorandum of appeal.
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SCHEDULE I—continued.

Ad valorem fees.

NUMBER.	PROPER FEE.
6. Copy or translation of a judgment or order not being, or having the force of, a decree.	<p data-bbox="325 409 754 574">When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority—</p> <p data-bbox="325 624 754 707">(a) —If the amount or value of the subject-matter is fifty or less than fifty rupees ... Four annas.</p> <p data-bbox="325 756 754 814">(b).—If such amount or value exceeds fifty rupees ... Eight annas.</p>
	<p data-bbox="325 863 754 921">When such judgment or order is passed by a High Court ... One rupee.</p>
7. Copy of a decree or order having the force of a decree.	<p data-bbox="325 971 754 1078">When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—</p> <p data-bbox="325 1120 754 1227">(a).—If the amount or value of the subject-matter of the suit where in such decree or order is made is fifty or less than fifty rupees ... Eight annas.</p> <p data-bbox="325 1301 754 1359">(b).—If such amount or value exceeds fifty rupees ... One rupee.</p> <p data-bbox="325 1400 754 1458">When such decree or order is made by a High Court ... Four rupees.</p>

Court Fees.
SCHEDULE I—continued.
Ad valorem fees.

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NUMBER.		PROPER FEE.
<p>8. Copy of any document liable to stamp-duty under the General Stamp Act, 1869, when left by any party to a suit or proceeding in place of the original withdrawn.</p>	<p>(a).—When the stamp-duty chargeable on the original does not exceed eight annas.</p> <p>...</p> <p>(b).—In any other case</p>	<p>The amount of the duty chargeable on the original.</p> <p>... Eight annas</p>
<p>9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or office, or from the office of any Chief officer charged with the executive administration of a Division.</p>	<p>For every three hundred and sixty words or fraction of three hundred and sixty words</p>	<p>... Eight annas.</p>
<p>10. Certificate of administration granted under Act No. XL of 1858 (for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal) or under Act No. XX of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay).</p>	<p>If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees</p> <p>...</p> <p>If such amount of value exceeds five hundred rupees but not one thousand rupees</p> <p>...</p> <p>And for every one thousand rupees, or part thereof, in excess of one thousand rupees</p>	<p>... Five rupees.</p> <p>...</p> <p>... Ten rupees.</p> <p>... Five rupees.</p>

SCHEDULE I.—continued.

Ad valorem fees.

Where the widows of an intestate applied for administration to the estate of the deceased—

Held, that the District Judge, before whom the application was made was right in following the usual practice (which was declared to be a reasonable practice) of his court in refusing to grant such administration to the widows jointly.

The Court fee stamp to be imposed on a certificate of administration ought not to be assessed on a valuation, including property absolutely denied by the applicants to belong to the intestate estate until the contrary be proved. *Nityo Kali Debya V. Kedar Nath Chatterjee* 5 C. L. R., 368.

NUMBER.

PROPER FEE

11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the probate or letters shall be granted exceed one thousand rupees	Two per cent ^{turn} on such amount value.
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A testator died in England, and his executrix proved his will there, and then in this Court, paying duty in each country on the assets there. On the death of the executrix, the Administrator General obtained letters of administration de bonis non of the testator's unadministered property valued at a greater sum than the sum on which duty was originally paid in this country by the executrix, but which sum was made up of assets from England upon which duty had already been paid there,—*held*, that as the assets were within the Jurisdiction of this Court at the time of the grant of administration, and the Administrator General could not have obtained possession of them otherwise than by virtue of the grant, they were liable to the ad valorem fee prescribed by cl. 11 Sched 1 of the Court Fees Act. In the goods of *Murch* I. L. R. 4 Cal 725.

For the purpose of determining the probate fee in respect of an annuity, the word "value" in Act VII of 1870 Sched I cl 11 must be taken to mean the market value of the annuity and not ten times the amount of a yearly payment.

Where property in respect of which probate is sought, is mortgaged the amount of the mortgage incumbrance must be deducted from the market value of the property, and the probate fee charged on the balance. In re will of *Ram Chandra Lakshmanji* I. L. R., 1 Bom 118.

On the death of a Hindu lady, who had succeeded to her father's property for the estate of a Hindu daughter, it appeared that certain Government promissory notes, which formed a portion of the father's property, were then standing in her own name. On an application by the sons for letters of administration to her estate, *held*, that on her death, the grandfather's estate became in the hands of her representatives trust property in respect of which no duty was payable under the Court Fees Act. In the goods of *Joymoyee Dassee* 14 B. L. R. 184.

The term property in clauses 11 and 12 of sch 1 of the C. F. Act includes not only property to which the deceased was beneficially entitled during his life time, but also all property which stood in his name as trustee, or of which he was possessed *Benami* for others. In the goods of *Beresford* 7 B. L. R. 57: 15 W R 456.

Court Fees.

SCHEDULE I—Continued.

- A, and B, were brothers joint in estate. A. died unmarried leaving no relative except B. B. obtained grant of letters of administration of the estate of A., consisting of a half share of certain property, the other half share of which was claimed by B. to belong to himself. By Financial Resolution No. 2004, 14th July 1871, the fees chargeable under Sch 1 Art 11 of the C. F. Act were remitted in respect of letters of administration relating to "property which a deceased person was possessed of as a trustee for any other person." *Held* that B.'s half share should be treated as trust property, and exempted from the 2 per cent *advalorem* fee.
- In the goods of Brindabun Chundra Ghose 11 B. L. R. Ap 39.
- The uncertainty of recovering a debt due to the estate of a deceased person is not a sufficient ground for a proportionate reduction of the fee payable in respect of letters of administration to such estate.
- In the goods of Beake 13 B. L. R. Ap 24.
- Where a person having a life interest in a fund, with a general and absolute power of appointment thereover, exercises such power by will, no *advalorem* fee is payable in respect of such fund under the Court Fees Act.
- In the goods of Oram 12 B. L. R. Ap 21. 21 W. R. 245.
- Where letters are granted limited for the purpose of collecting the rent of a house, the duty is to be assessed on the value of the house.
- In the goods of Ram Chundra Das 9 B. L. R. 30. 18 W. R. 153.
- No stamp duty is payable under the Court Fees Act, 1870, or probate granted to a second executor, to whom leave was reserved to take out probate when the first probate was granted.
- In the goods of Bibee Ameerun 15 W. R. 496
- If the property is mortgaged for its full value nothing is payable.
- Goods of Innes 6 B. L. R. Ap. 43.
- In cases in which the value of property in respect of which a certificate of heirship (and a probate or letters of administration stand on the same footing) is sought exceeds Rs. 1000, the stamp duty should be calculated on the whole amount, and not on the excess over Rs. 1000, but the exceeding Rs. 1000, is the condition of liability. 5 Mad. H. C. Rulings. 45.
- When the full *advalorem* duty has been paid, and it is necessary to obtain a fresh grant, as for instance, when a freshly discovered document has to be proved, no fresh fee is payable. Goods of Mosson 6 B. L. R., Ap. 139.
- When the grant is made in respect of property which is subject to a mortgage, the value of the property for the purpose of estimating the *advalorem* duty payable under this Act is the value of that with which the representative has to deal—is the value of the entire property less the amount of the encumbrance. In the goods of Innes, 8 B. L. R. Ap. 44.
- Where A., by deed gave funds to trustees for B for life, and after her death to such uses as B. should by will appoint, and B. made an appointment it was *held* that duty was not payable. Goods of George 6 B. L. R., Ap. 138.
- See also 12 B. L. R., Ap. 21.
- Where letters of administration were applied for in respect of certain securities and exemption from the duty prescribed by sch I art 11 Act VII of 1870 was claimed on the ground that as the applicants right had been declared by a decree of the High Court, she ought not to be required to obtain such letters—*Held* that the duty must be paid, there being no ground for exemption.
- In the goods of Sreenath Dass 20 W. R. 440

SCHEDULE I—continued.

Ad volorem Fees.

NUMBERS.	PROPER FEE
<p>12. Certificate granted under Act No. XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), or under Bombay Regulation VIII of 1827 (to provide for the formal recognition of Heirs, Executors and Administrators and Managers of Property by the Courts.</p>	<p>If the amount or value of the property in respect of which the certificate shall be granted exceed one thousand rupees, Two per centum on such amount or value.</p>
<p>NOTE.—The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate and thereafter, wherever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realised by him under such certificate.</p>	
<p>If the monies so recovered or realised exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this schedule for such excess.</p>	
<p>In default of filing such statement within the time allowed, the Court may cancel the certificate.</p>	

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees leviable on the institution of suits.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. As. P.
	5	0 6 0
5	10	0 12 0
10	15	1 2 0
15	20	1 8 0
20	25	1 14 0
25	30	2 4 0
30	35	2 10 0
35	40	3 0 0
40	45	3 6 0
45	50	3 12 0
50	55	4 2 0
55	60	4 8 0
60	65	4 14 0
65	70	5 4 0
70	75	5 10 0
75	80	6 0 0
80	85	6 6 0
85	90	6 12 0
90	95	7 2 0
95	100	7 8 0

SCHEDULE.—Continued.

Table of rates of ad valorem fees &c.—Continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. As. P.
100	110	8 4 0
110	120	9 0 0
120	130	9 12 0
130	140	10 8 0
140	150	11 4 0
150	160	12 0 0
160	170	12 12 0
170	180	13 8 0
180	190	14 4 0
190	200	15 0 0
200	210	15 12 0
210	220	16 8 0
220	230	17 4 0
230	240	18 0 0
240	250	18 12 0
250	260	19 8 0
260	270	20 4 0
270	280	21 0 0
280	290	21 12 0
290	300	22 8 0

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
300	310	23 4 0
310	320	24 0 0
320	330	24 12 0
330	340	25 8 0
340	350	26 4 0
350	360	27 0 0
360	370	27 12 0
370	380	28 8 0
380	390	29 4 0
390	400	30 0 0
400	410	30 12 0
410	420	31 8 0
420	430	32 4 0
430	440	33 0 0
440	450	33 12 0
450	460	34 8 0
460	470	35 4 0
470	480	36 0 0
480	490	36 12 0
490	500	37 8 0

Court Fees.

SCHEDULE I.—Continued.

Table of rates of ad valorem fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
500	510	38 4 0
510	520	39 0 0
520	530	39 12 0
530	540	40 8 0
540	550	41 4 0
550	560	42 0 0
560	570	42 12 0
570	580	43 8 0
580	590	44 4 0
590	600	45 0 0
600	610	45 12 0
610	620	46 8 0
620	630	47 4 0
630	640	48 0 0
640	650	48 12 0
650	660	49 8 0
660	670	50 4 0
670	680	51 0 0
680	690	51 12 0
690	700	52 8 0

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
700	710	53 4 0
710	720	54 0 0
720	730	54 12 0
730	740	55 8 0
740	750	56 4 0
750	760	57 0 0
760	770	57 12 0
770	780	58 8 0
780	790	59 4 0
790	800	60 0 0
800	810	60 12 0
810	820	61 8 0
820	830	62 4 0
830	840	63 0 0
840	850	63 12 0
850	860	64 8 0
860	870	65 4 0
870	880	66 0 0
880	890	66 12 0
890	900	67 8 0

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees &c.—continued.

When the amount or value of the subject- matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. A. P.
900	910	68 4 0
910	920	69 0 0
920	930	69 12 0
930	940	70 8 0
940	950	71 4 0
950	960	72 0 0
960	970	72 12 0
970	980	73 8 0
980	990	74 4 0
990	1,000	75 0 0
1,000	1,100	80 0 0
1,100	1,200	85 0 0
1,200	1,300	90 0 0
1,300	1,400	95 0 0
1,400	1,500	100 0 0
1,500	1,600	105 0 0
1,600	1,700	110 0 0
1,700	1,800	115 0 0
1,800	1,900	120 0 0
1,900	2,000	125 0 0

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees, &c.—continued.

When the amount or value of the subject-matter exceeds.	But does not exceed	Proper Fee.	
Rs.	Rs.	Rs.	A. P.
2,000	2,100	180	0 0
2,100	2,200	185	0 0
2,200	2,300	140	0 0
2,300	2,400	145	0 0
2,400	2,500	150	0 0
2,500	2,600	155	0 0
2,600	2,700	160	0 0
2,700	2,800	165	0 0
2,800	2,900	170	0 0
2,900	3,000	175	0 0
3,000	3,100	180	0 0
3,100	3,200	185	0 0
3,200	3,300	190	0 0
3,300	3,400	195	0 0
3,400	3,500	200	0 0
3,500	3,600	205	0 0
3,600	3,700	210	0 0
3,700	3,800	215	0 0
3,800	3,900	220	0 0
3,900	4,000	225	0 0

Court Fees.

SCHEDULE I.—Continued.

Table of rates of ad valorem fees &c.—continued.

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. A. P.
4,000	4,100	230 0 0
4,100	4,200	235 0 0
4,200	4,300	240 0 0
4,300	4,400	245 0 0
4,400	4,500	250 0 0
4,500	4,600	255 0 0
4,600	4,700	260 0 0
4,700	4,800	265 0 0
4,800	4,900	270 0 0
4,900	5,000	275 0 0
5,000	5,250	285 0 0
5,250	5,500	295 0 0
5,500	5,750	305 0 0
5,750	6,000	315 0 0
6,000	6,250	325 0 0
6,250	6,500	335 0 0
6,500	6,750	345 0 0
6,750	7,000	355 0 0
7,000	7,250	365 0 0
7,250	7,500	375 0 0

Court Fees.

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SCHEDULE I.—Continued.

Table of rates of ad valorem fees &c.—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
7,500	7,750	385 0 0
7,750	8,000	395 0 0
8,000	8,250	405 0 0
8,250	8,500	415 0 0
8,500	8,750	425 0 0
8,750	9,000	435 0 0
9,000	9,250	445 0 0
9,250	9,500	455 0 0
9,500	9,750	465 0 0
9,750	10,000	475 0 0
10,000	10,500	490 0 0
10,500	11,000	505 0 0
11,000	11,500	520 0 0
11,500	12,000	535 0 0
12,000	12,500	550 0 0
12,500	13,000	565 0 0
13,000	13,500	580 0 0
13,500	14,000	595 0 0
14,000	14,500	610 0 0
14,500	15,000	625 0 0

SCHEDULE I.—Continued.

Table of rates of *ad valorem* fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
15,000	15,500	640 0 0
15,500	16,000	655 0 0
16,000	16,500	670 0 0
16,500	17,000	685 0 0
17,000	17,500	700 0 0
17,500	18,000	715 0 0
18,000	18,500	730 0 0
18,500	19,000	745 0 0
19,000	19,500	760 0 0
19,500	20,000	775 0 0
20,000	21,000	795 0 0
21,000	22,000	815 0 0
22,000	23,000	835 0 0
23,000	24,000	855 0 0
24,000	25,000	875 0 0
25,000	26,000	895 0 0
26,000	27,000	915 0 0
27,000	28,000	935 0 0
28,000	29,000	955 0 0
29,000	30,000	975 0 0

Court Fees.

SCHEDULE I.—Continued.

Table of rates of ad valorem fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
30,000	32,000	995 0 0
32,000	34,000	1,015 0 0
34,000	36,000	1,035 0 0
36,000	38,000	1,055 0 0
38,000	40,000	1,075 0 0
40,000	42,000	1,095 0 0
42,000	44,000	1,115 0 0
44,000	46,000	1,135 0 0
46,000	48,000	1,155 0 0
48,000	50,000	1,175 0 0
50,000	55,000	1,200 0 0
55,000	60,000	1,225 0 0
60,000	65,000	1,250 0 0
65,000	70,000	1,275 0 0
70,000	75,000	1,300 0 0
75,000	80,000	1,325 0 0
80,000	85,000	1,350 0 0
85,000	90,000	1,375 0 0
90,000	95,000	1,400 0 0
95,000	1,00,000	1,425 0 0

Court Fees.

SCHEDULE I.—Continued.

Table of rates of ad valorem fees &c.—continued.

When the amount or value of the subject- matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
1,00,000	1,05,000	1,450	0	0
1,05,000	1,10,000	1,475	0	0
1,10,000	1,15,000	1,500	0	0
1,15,000	1,20,000	1,525	0	0
1,20,000	1,25,000	1,550	0	0
1,25,000	1,30,000	1,575	0	0
1,30,000	1,35,000	1,600	0	0
1,35,000	1,40,000	1,625	0	0
1,40,000	1,45,000	1,650	0	0
1,45,000	1,50,000	1,675	0	0
1,50,000	1,55,000	1,700	0	0
1,55,000	1,60,000	1,725	0	0
1,60,000	1,65,000	1,750	0	0
1,65,000	1,70,000	1,775	0	0
1,70,000	1,75,000	1,800	0	0
1,75,000	1,80,000	1,825	0	0
1,80,000	1,85,000	1,850	0	0
1,85,000	1,90,000	1,875	0	0
1,90,000	1,95,000	1,900	0	0
1,95,000	2,00,000	1,925	0	0

Court Fees.

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SCHEDULE I.—Continued.

Table of rates of ad valorem fees, &c.—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee		
Rs.	Rs.	Rs.	As.	P.
2,00,000	2,05,000	1,950	0	0
2,05,000	2,10,000	1,975	0	0
2,10,000	2,15,000	2,000	0	0
2,15,000	2,20,000	2,025	0	0
2,20,000	2,25,000	2,050	0	0
2,25,000	2,30,000	2,075	0	0
2,30,000	2,35,000	2,100	0	0
2,35,000	2,40,000	2,125	0	0
2,40,000	2,45,000	2,150	0	0
2,45,000	2,50,000	2,175	0	0
2,50,000	2,55,000	2,200	0	0
2,55,000	2,60,000	2,225	0	0
2,60,000	2,65,000	2,250	0	0
2,65,000	2,70,000	2,275	0	0
2,70,000	2,75,000	2,300	0	0
2,75,000	2,80,000	2,325	0	0
2,80,000	2,85,000	2,350	0	0
2,85,000	2,90,000	2,375	0	0
2,90,000	2,95,000	2,400	0	0
2,95,000	3,00,000	2,425	0	0

SCHEDULE I—Concluded.

Table of rates of ad valorem fees, &c.—concluded.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
3,00,000	3,05,000	2,450	0	0
3,05,000	3,10,000	2,475	0	0
3,10,000	3,15,000	2,500	0	0
3,15,000	3,20,000	2,525	0	0
3,20,000	3,25,000	2,550	0	0
3,25,000	3,30,000	2,575	0	0
3,30,000	3,35,000	2,600	0	9
3,35,000	3,40,000	2,625	0	0
3,40,000	3,45,000	2,650	0	0
3,45,000	3,50,000	2,675	0	0
3,50,000	3,55,000	2,700	0	0
3,55,000	3,60,000	2,725	6	0
3,60,000	3,65,000	2,750	0	0
3,65,000	3,70,000	2,775	0	0
3,70,000	3,75,000	2,800	0	0
3,75,000	3,80,000	2,825	0	0
3,80,000	3,85,000	2,850	0	0
3,85,000	3,90,000	2,875	0	0
3,90,000	3,95,000	2,900	0	0
3,95,000	4,00,000	2,925	0	0
4,00,000	4,05,000	2,950	0	0
4,05,000	4,10,000	2,975	0	0
4,10,000	.....	3,000	0	0

SCHEDULE II.

Fixed Fees,

NUMBER.		PROPER FEE.
Application or Petition.	<p>(a).—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;</p> <p>or when presented to any officer of Land Revenue by any person holding temporarily-settled land under direct engagement with Government; and when the subject-matter of the application or petition relates exclusively to such engagement;</p> <p>or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement;</p> <p>or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859, or to any Court</p>	<p>One anna</p>

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPER FEE
1. Application or petition— <i>continued</i> .	<p>of Small Causes constituted under Act No. XI of 1865, or under Act No. XVI of 1868, section twenty, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;</p> <p>or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer or of any other document on record in such Court or Office.</p>	One anna

An application for a new trial under Section 21 of Act XI of 1865 is distinct from an application for a review of judgment, and a one anna stamp is sufficient under this article.

Chotilal jamnadas V Bulakidas

7 Bom. H. C. Rep. A. J. 109.

When portions of khatta books are translated, each portion translated is treated as a separate document, and any portion less than a folio is charged for under the Court Fees Act as a whole folio. The portions containing less than a folio are not to be taken together, and charged according to the whole number of folios they contain.

Brajanath Dhar, V. Bhabo Mohun Dhar 8 R. L. R. Ap. 137.

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition—(continued)	<p>(b).—When containing a complaint or charge of any offence other than an offence for which Police officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court;</p> <p>or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or to any revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;</p> <p>or to deposit in Court revenue or rent ;</p> <p>or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.</p>	<p>Eight annas.</p> <p>Eight annas.</p>

An application for a probate of a will, or for letters of administration comes under, Schedule II. Art 1, Act vii of 1870.

Jodu Nath Shadhukhan petitioner 15 W. R. 40.

The term application in Schedule ii. of the Court Fees Act, when read with Section 6 must be construed to mean an application in writing.

Tetley v. The Administrator General of Bengal 2. N. W. P. 418.

The proper Court Fee upon an application to file an award under Section 525 is the Court Fee prescribed for applications, and not the Court Fee upon a plaint.

Bajadar Bhuggut v. Monchur Bhuggut I. B. R. 10, Cal., 11.

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition.—(continued)	(c).—When presented to a Chief Commissioner or other chief controlling revenue or executive authority, or to a Commissioner of Revenue or Circuit, or to a any chief officer charged with the executive administration of a Division and not otherwise provided for by this Act.	One rupee.
2. Application for leave to sue as a pauper	(d).—When presented to a High Court	Two rupees. Eight annas.
3. Application for leave to appeal as a pauper	(a).—When presented to a District Court	One rupee.
	(b).—When presented to a Commissioner or a High Court.	Two rupees.
4. <i>Plaint or memorandum of appeal in a suit to obtain possession under Act No. V of 1864 (to give Mamludars' Courts jurisdiction in certain cases to maintain existing possession, or to restore possession to any party dispossessed otherwise than by course of law).</i>		
5. <i>Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy</i>		Eight annas.

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.	PROPER FEE.
6. Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any court or executive authority . . .	
7. Undertaking under section forty-nine of the Indian Divorce Act . . .	Eight annas.
8. Petition of objection to assessment under the Indian Income Tax Act . . .	
9. Petition of appeal under the Indian Income Tax Act.	One rupee.
10. Mukhtarnama or Wakalatnama.	When presented for the conduct .. of any one case— (a).—to any Civil or Criminal Court other than a High Court, or to any Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (b) and (c) of this number., Eight annas. (b).—to a Commissioner of Revenue, Circuit or Customs, or to any officer charged with the executive administration of a Division, not being the chief revenue or executive authority ... One rupee.

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPER FEE
	(c).—to a High Court, Chief Commissioner, Board of Revenue, or other Chief controlling revenue or executive authority ...	Two rupees.

If a pleader is authorized by the *vakalatnamah* under which he acts to receive moneys or documents for his client in the course of the cause which he is empowered to conduct, or as a consequence of the decree or any order of the court in such cause, a Court of Justice might legally and with propriety direct a public officer to pay money or make over valuable documents to the pleader, provided that such money or documents have become receivable by the client in the ordinary course of the suit, or in consequence of the order or decree.

A general or special power of attorney to enable the pleader to receive such money or documents is not necessary.

In the matter of Act XVIII of 1869 3. C. L. R., 13.

11. Memorandum of appeal when the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree, and is presented.—

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|---|--|
| <p>(a).—to any Civil Court, other than a High Court, or to any Revenue Court or executive officer other than the High Court or chief controlling revenue or executive authority. ...</p> <p>(b).—to a High Court or Chief Commissioner, or other chief controlling executive or revenue authority ...</p> | <p>Eight annas.</p> <p>Two rupees.</p> |
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SCHEDULE II.—(Continued.)

Fixed Fees.

Appeals from orders under sec. 331 of Act X of 1877, as amended by sec. 52 of Act XII of 1879, are chargeable with the same Court Fee as required in the case of appeals from decrees. *Mahbuban v. Watson and Co.*, I. L. R., 8 Cal. 720.

An application to a High Court to set aside an order of a District Court of first instance directing an award made without the intervention of a Court, to be filed, should be made on a stamp of two Rupees under this article. *Lakshman Shivaji v. Rama Esu.* 8 Bom. H. C. Rep. A. J. 17.

NUMBER.	PROPER FEE
12. Caveat ...	
13. Application under Act No. X of 1859, section twenty-six, or Bengal Act No. VI of 1862, section nine, or Bengal Act No. VIII of 1869, section thirty-seven ...	Five rupees.
14. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866 ...	
15. Complaint or memorandum of appeal in a suit to obtain possession of a wife ...	
16. Administration-bond	Eight rupees.
17. Complaint or memorandum of appeal in each of the following suits:—	
i. To alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court:	Ten rupees.

A suit brought under the provisions of sec. 246 of Act VIII of 1859 to set aside an order allowing a claim to attached property, and releasing the property from attachment, is a suit to try the title and establish the right of the person who brings the suit: and such a suit must be

SCHEDULE II.—(Continued.)

Fixed Fees.

valued according to the value of the property, and cannot be brought upon a stamp of Rs. 10, under Art 17 of Sch. II of Act VII of 1870. Mufti Jalaluddeen Mahomed y. Shohorulla, 15 B. L. R., Ap. 3.

NUMBER.

FEE.

ii. To alter or cancel any entry in a register of the names of proprietors of revenue-paying estates :

Ten rupees.

iii. To obtain a declaratory decree where no consequential relief is prayed :

The law may lay down for purposes of revenue certain rules for the valuation of suits ; but such valuation cannot be accepted as a criterion of the actual value of the claim, upon which the jurisdiction of a Court depends. Bai Mahjor v. Bulakhi Chaku, 1 L. R., 1 Bom. 538, see also 18 W. R. 108, 20 W. R. 33, 25 W. R. 153.

A plaintiff for confirmation of possession and for setting aside a forged and invalid Will, does not come under these provisions ; but must be stamped according to the value of the subject-matter of the suit. Joy Narain Giree v. Grish Chuuder Mytee, 22 W. R. 438. 15 B. L. R. 172.

A Hindu, claiming to have a right to redeem a mortgage in due course of time, being entitled in reversion after persons having only a partial interest, and who had mortgaged the whole property as their own, seeks a declaratory decree only, and a 10 Rupees stamp is sufficient for him to put on the plaint. Musamat Imaman v. Lalta Buksh, 7 N. W. P., H. C. Rep. 343.

A plaintiff, seeking to set aside a solenamah, and thereby aiming at the possession of immoveable property, will not be allowed to bring his suit on a stamp of Rs. 10, and to frame it as if it were to set aside an adoption. Bama Soondaree Dassee v. Surjo Coomar Roy, 22 W. R. 338.

A suit to remove a Mutwalli, and asking that the plaintiff may be appointed to the office, and receive the profits of the wakf, must bear an *ad valorem* stamp. Delros Banoo Begum v. Nawab Ashgur Ally Khan, 15 B. L. R. 167.

Where a suit was brought against the holder of an impartible palaipat and others, to whom portions of the estate had been alienated, by the son of the Palaipatkar, entitled to succeed to the estate on his father's demise, for a decree declaring that the alienations made by his father did not affect his rights. Held, that Court Fee leviable on the plaint was Rs. 10 under Art 17, cl. iii of Sch. II of the Court Fees Act, 1870, and not an *ad valorem* Fee calculated upon the amount for which the alienations had been made. Narayan v. Muttyan, 1 L. R. 7; Mad. 134.

Court Fees.

SCHEDULE II.—(Continued.)

Fixed Fees.

A plaintiff to have a summary order set aside, to have a Will declared genuine, and to be retained in possession of the property of the deceased, was held to be one for consequential relief and one not coming under Sch. II, Art 17, cl. iii of Act VII of 1870. *Dino Bundhoo Choudhury v. Raj Mohini Choudhuraian*, 16. W. R. 213, see 19 W. R. 214.

The plaintiff claiming under a Will of the deceased applied for a Certificate under Act XXVII of 1860, but the High Court on appeal refused the same. He now brought a suit alleging that he was in possession of the property of the deceased, and asked for "confirmation of rights and possession by enforcement of the Will, in reversal of the summary order of the High Court." Held that cl. iii Art 17 of Sch. II of Act VII of 1870, did not apply. This was not a suit to obtain a declaratory decree, where no consequential relief was prayed. *Dino Bundhu Choudhury v. Raj Mohini Choudhuraian*, 8 B. L. R., Ap. 32.

Where plaintiff seeks an account of his father's estate from the Executor and claims damages to a certain amount in default of obtaining it, the suit should be filed on the stamp required for a suit for the amount to be recovered, and not a stamp of Rs. 10 under Sch. II Art 17, cl. iii of Act VII of 1870. *Ram Doolal Sing v. Gopal Kristo Sing*, 16 W. R. 156.

NUMBER.	PROPER FEE.
iv. To set aside an award.	
v. To set aside an adoption :	
vi. Every other suit where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by this Act.	Ten-rupees.

The Stamp Fee payable on appeals to the High Court in suits asking for "Partition, the separation of a share, and for khas possession of that share after separation" is that leviable under Art 6, cl. xvii, Sch. II of the Court Fees Act.

For the purpose of jurisdiction the Court should be guided by the value of the property in suit, but the amount of the Stamp Fee should be governed by a different principle. *Kirty Churn Mitter v. Annath Nath Deb*, 1. L. R., 8 Cal. 757.

Where a suit was brought as a declaratory suit on a stamp of Rs. 10, but in the opinion of the Court it should have been a suit on a stamp calculated *ad valorem*, the plaintiff was not allowed to put an additional stamp considering that such suits were often instituted to evade stamp laws. *Chokalingapeshana Naicker v. Achyar*, 1. L. R., 1 Mad. 40.

SCHEDULE II.—(Continued.)

Fixed Fees.

In a suit for the removal of the defendants from the management of certain trust funds on the ground of misconduct, the plaintiff stamped his plaint with a Court Fee Stamp of Rs. 10, and valued the suit at Rs. 7,000 "for the purpose of jurisdiction." *Held*, that the Rs. 7,000 must be taken under the circumstances, to be the plaintiff's subject-matter of the suit, and that the Court Fee must be estimated upon that sum. *Omrao Mirja v. M. Jones*, I. L. R., 10 Cal. 599.

An appeal to the District Court from the rejection of a claim by a Forest Settlement Officer under cl. ii of sec. 10 of the Madras Forest Act, 1882, falls under Art 17, cl. vi and not under Art. 11 (a), of Sch. II of the Court Fees Act, 1870. *Kamaraja v. The Secretary of State for India*, I. L. R., 8 Mad. 22.

The Court Fees payable on all appeals to the High Court arising out of suits brought under sec. 77 of the Registration Act of 1877, is a Fee of ten rupees, irrespective of the value of the suit. *Jantoo v. Radha Cantoo Das*, I. L. R. 8, Cal. 515.

NUMBER.		PROPER FEE.
18. Application under section three hundred and twenty-six of the Code of Civil Procedure ...	}	
19. Agreement under section three hundred and twenty-eight of the same Code ...	}	Ten rupees.
20. Every petition under the Indian Divorce Act except petitions under section forty-four of the same Act, and every memorandum of appeal under section fifty-five of the same Act ...	}	Twenty rupees.
21. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act 1865 ...	}	

SCHEDULE III.
ENACTMENTS REPEALED.

PART I.

Acts wholly repealed.

Number and year.	Title.
Act No. XVII of 1848. . .	An Act for substituting Stamp Duties instead of Institution Fees in the Courts of the District Moonsiffs in the Presidency of Madras; and for refunding Stamp Duties on Plaints in certain cases.
Act No. X of 1862 . . .	An Act to consolidate and amend the law relating to Stamp Duties.
Act No. XI of 1863 . . .	An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.
Act No. XVIII of 1865 . . .	An Act to amend Act No. X of 1862 (to consolidate and amend the law relating to Stamp Duties).
Act No. XV of 1868 . . .	The High Court Fees' Act, 1868.
Bengal Act No. V of 1863	An Act to amend the law relating to the employment and remuneration of Peons for the service and execution of the process of the Civil and Revenue Courts.

PART II.

Acts and Regulations partly repealed.

Number and year.	Title.	Extent of repeal.
Act No. V of 1852 . . .	An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, entitled "An Act for Marriages in India."	In section nine, the words 'which may in all cases be on unstamped paper.' Section twenty-five.

SCHEDULE III.—(Continued.)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
Act No. XXXIX of 1852	An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	Section nine. " "
Act No. VIII of 1859	An Act for simplifying the procedure of the Court of Civil Judicature not established by Royal Charter.	Section 'nineteen', from and including the words 'On the application,' to the end of the section. In section one hundred and eighteen, the words 'on unstamped paper.' In section one hundred and nineteen, the words 'and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.' Section one hundred and twenty-two, from and including the words, 'When such statements,' to the end of the section. In section one hundred and sixty-four the words 'on unstamped paper.' In section two hundred and ninety-nine the words 'on a stamp paper of the value of eight annas.' In section three hundred and twenty-six, the words 'on a

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. VIII of 1859 —(continued)	<p>stamp paper of one-fourth of the value prescribed for plaints in suits.</p> <p>In section three hundred and twenty-seven, the words 'shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and.'</p> <p>In section three hundred and twenty-eight, the words 'which shall be subject to the same Stamp Duty as prescribed for plaints in suits.'</p> <p>In section three hundred and sixty-eight the words 'on a stamp paper of the value of one rupee if the appeal lie to the District Court, and on a stamp paper of the value of two rupees if the appeal lie to the Sudder Court.'</p> <p>Section three hundred and seventy-seven, from and including the words 'If the application,' to the end of the section.</p>

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. X of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William.	In sections thirteen and one hundred and twenty, the words '(which may be on plain paper)'. In section nineteen, the words 'on plain paper.' So much of sections one hundred and fifty-six and one hundred and sixty-one as relates to the stamp to be borne by a petition of appeal.
Act No. XXIII of 1861	An Act to amend Act VIII of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter).	The last clause of section twelve.
Act No. XX of 1862...	An Act to provide for the levy of fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain sections of Act VIII of 1859 in the said High Court.	The preamble down to and including the words 'appointed to the said High Court; and.' Section two.
Act No. I of 1863 ...	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah and to provide for the extension of certain Acts to the said Territory.	In section seventeen, the last sentence.

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. I of 1863— (continued).	.....	In section twenty, the words 'shall be written on stamp paper of the value of one rupee if the appeal lie to the Court of the Deputy Commissioner, and on stamp paper of the value of two rupees if the appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and'
Act No. XX of 1863...	An Act to enable the Government to divest itself of the management of Religious Endowments.	Section twenty-six. In section eighteen, the words 'The application may be made upon unstamped paper' and 'In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit.'
Act No. XXI of 1863	An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns.	Section forty-six.

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. XXXII of 1863.	An Act to continue in force Act XX of 1862 (to provide for the levy of fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain sections of Act VIII of 1859 in the said High Court).	So far as it relates to fees and Stamp Duties.
Act No. X of 1865 ...	The Indian Succession Act, 1865.	Section three hundred and twenty-nine and the schedule.
Act No. XI of 1865 ...	An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature.	In section forty-seven, the words 'The twenty-sixth section of Act X of 1862 to consolidate and amend the law relating to Stamp Duties), and,'
Act No. XV of 1865...	The Parsi Marriage and Divorce Act, 1865.	Section thirty-nine.
Act No. XX of 1866...	The Indian Registration Act, 1866.	In section fifty-three, the words 'shall, where a stamp is required by law, bear a stamp of one-fourth the value prescribed for a plaint in such a suit and' In section eighty-four, the words 'shall, where a stamp is required by law, bear a stamp of eight annas, and'

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. XXI of 1866.	The Native Converts' Marriage Dissolution Act, 1866.	In section seven, the words 'shall bear a stamp of two rupees, and'
Act No. XXVI of 1867.	An Act to amend the law relating to stamp duties.	The whole Act, except the words 'No Advocate of any High Court shall be required to file or present a Mukhtárnámá or Wakálat-námá or any other document empowering him to act.'
Act No. XIX of 1868.	The Oudh Rent Act, 1868.	In section fifteen, the words 'the application shall bear a stamp of eight annas' In section twenty-five, the words 'on a paper bearing a stamp of eight annas' In section thirty, the words 'on a paper bearing a stamp of eight annas'
Act No. XXVIII of 1868	The Panjáb Tenancy Act, 1868.	In sections seventeen and forty, the words 'on a paper bearing a stamp of eight annas'
Act No. IV of 1869	The Indian Divorce Act	Section forty-three. In section forty-seven, the words 'or of reversal of Judicial separation, or for restitution of conjugal rights, or for damages, shall bear a stamp of five rupees, and'

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Act No. IV of 1869— (continued).	.....	and the words 'in the first, second and third cases mentioned in this section,' In section forty-nine, the words 'shall bear a stamp of eight annas, and'
Act No. IX of 1869...	The Indian Income Tax Act.	In section nineteen, the words 'it shall bear a stamp of eight annas,' In section twenty-one, the words 'shall bear a stamp of one rupee, and'
Bengal Regulation VI of 1823.	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the Indigo Plant, and for declaring certain principles in regard to the same.	Sections seven and eight.
Bengal Act No. VI of 1862.	An Act to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).	In section five, the passage beginning with the words 'upon paper and ending with deposit' In section thirteen, the passage beginning with the words 'and be written'

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Bengal Act No. II of 1869.	An Act to ascertain, regulate and record certain tenures in Chota-Nagpore.	Section twenty-two.
Bengal Act No. VIII of 1869.	An Act to amend the procedure in suits between landlords and tenants.	In sections fourteen and seventy-six, the words '(which may be on plain paper),' In section twenty, the words 'on plain paper.'
Madras Regulation III of 1802.	A Regulation for receiving, trying and deciding suits on complaints declared cognizable in the Courts of Adawlut established in the several zillahs immediately subject to the Presidency of Fort St. George.	Section twenty-one, from 'When' down to 'writing' (both inclusive).
Madras Regulation IV of 1816.	A Regulation for declaring the head inhabitants of villages to be Moonsiffs in their respective villages, to hear and decide civil suits for sums of money, or other personal property, to a limited amount, and for defining their jurisdiction.	So much of section thirty-two as relates to fees on the institution of suits tried by Village Munsiffs.
Madras Regulation V of 1816.	A Regulation for authorizing Village Munsiffs to assemble Village Panchayets for the adjudication of civil suits for sums	So much of sections ten and thirteen as relates to fees on the institution of suits tried by Village Panchayets.

SCHEDULE III.—(Continued.)

Enactments repealed.

Number and year.	Title.	Extent of repeal.
Madras Regulation V of 1816—(continued).	of money or other personal property, without limitation as to amount or value, within their respective jurisdictions and for defining the powers and authority to be vested in such Village Panchayets.	
Madras Regulation VII of 1816.	A Regulation for authorizing District Munsiffs to assemble District Panchayets for the adjudication of civil suits for real and personal property, without limitation as to amount or value, within their respective jurisdictions, and for defining the powers and authority to be vested in such District Panchayets.	So much of section ten as relates to fees on plaints and processes in suits before District Panchayets.
Madras Regulation XII of 1816.	Regulation for authorizing Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary; as also certain disputes respecting the occupying, cultivating and irrigating of land, to be tried and	So much of section eleven as relates to fees on plaints before the Collector.

SCHEDULE III.—(Concluded.)

Enactments repealed.

Number and year.	Title.	Extent of repeal
Madras Regulation XII of 1816—(continued).	determined by Village, and District Panchayets; and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Panchayets carried into execution.	
Madras Regulation XIV of 1816.	A Regulation for amending and modifying the Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.	Section twenty-one, second clause.
Madras Regulation II of 1825.	A Regulation for modifying and amending certain provisions contained in Regulation XIII of 1816, Regulation II of 1817, and Section VI, Regulation XXXIV of 1802.	Section five.
Madras Act No. VIII of 1865.	An Act to consolidate and improve the Laws which define the process to be taken for the recovery of rent.	Section seventy-five.

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„ Advocates of High Court need not present, schedule III, part 2.

See *Power of Attorney.*

Warrant officer, see *Power of Attorney.*

Water, see *Irrigation.*

Wife, fee on plaint in suit to obtain, schedule II, No. 15.

Written examination of complaint, fee, for, sec. 18.

Written statements called for by Court after first hearing of suit, exempt, sec. 19, para. iii.

RULES

AND

CIRCULAR ORDERS UNDER THE COURT FEES ACT.

(ACT No. VII OF 1870.)

1. [Act VII of 1870.—Rules* under Clause I of Section 20, declaring the fees chargeable for serving and executing processes issued by the High Court in the exercise of its Appellate Jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction in Bengal and Assam—C. O. No. 13 of 15th March 1878, and No. 2 of 6th January 1880.]

(1) There shall be charged for serving and executing the following processes the fees specified opposite the same severally and respectively:—

PART I.

Table of Fees in the High Court, on its Appellate side—

	Proper fees. Rs. A. P.
<i>Article 1.</i> —Summons to defendants, notice of appeal, or other notice to respondents, when the defendants or respondents are not more than four in number, <i>one fee</i>	3 0 0
When such defendants or respondents are more than four in number, then the fee above-mentioned for the first four, and an additional fee of eight annas for every such person in excess of four.	
<i>Article 2.</i> —Summons to witnesses, when the witnesses named therein are not more than four in number, <i>one fee</i>	3 0 0
When such witnesses are more than four in number, then the fee above-mentioned for the first four, and an additional fee of eight annas for every such witness in excess of four.	
<i>Article 3.</i> —Every Commission to make a local investigation or to take evidence, or for any other purpose—	
(a) in respect of the Commission	3 0 0
(b) in respect of the remuneration of the Commissioner, or person who is to execute the Commission, <i>per diem</i> ... ..	... Such sum as the Court may direct.

* Published in the *Calcutta Gazette* of the 6th February 1878, and in the *Assam Gazette* of the 9th March 1878.

NOTE.—A sum sufficient to cover the daily fee (*b*) for such period as may be fixed by the Court for the purpose of executing the Commission must be paid in addition to the fee (*a*) at the time when the Commission is issued; and, if the Commission is not completely executed within the period so fixed, a further sum, sufficient to cover the daily fee (*b*) for the excess period extending from the end of that fixed period up to, and inclusive of, the date of the complete execution of the Commission, must be paid before the Commissioner's report or other return to the Commission is used.

	Rs.	A.	P.
<i>Article 4.</i> —Every warrant for arrest of the person ...	3	0	0
<i>Article 5.</i> —Every rule, notice, proclamation, injunction, or other order not specified in any preceding <i>Article</i> of this part ...	3	0	0

PART II.

Table of Fees in the Courts of District and Subordinate Judges, and in the Revenue Courts when the suit in which the process is issued by any such Revenue Court is valued at a sum exceeding Rs. 1,000—

	Rs.	A.	P.
<i>Article 1.</i> —Summons to defendants, notice of appeal, or other notice to respondents, when the defendants or respondents are not more than four in number, <i>one fee</i> ...	2	0	0
When such defendants or respondents are more than four in number, then the fee above-mentioned for the first four, and an additional fee of eight annas for every such person in excess of four.			
<i>Article 2.</i> —Summons to witnesses, when the witnesses are not more than four in number, <i>one fee</i> ...	2	0	0
When such witnesses are more than four in number, then the fee above-mentioned for the first four, and an additional fee of eight annas for every such witness in excess of four.			
<i>Article 3.</i> —Every Commission to make a local investigation or to take evidence, or for any other purpose—			
(<i>a</i>) in respect of the Commission ...	2	0	0
(<i>b</i>) in respect of the remuneration of the Commissioner, or person who is to execute the Commission, if such person be an officer of Government specially appointed for the purpose, <i>per diem</i> ...	3	0	0

NOTE.—A sum sufficient to cover the daily fee (*b*) for such period as may be fixed by the Court for the purpose of executing the Commission must be paid in addition to the fee (*a*) at the time when the Commission is issued; and, if the Commission is not completely executed within the period so fixed, a further sum, sufficient to cover the daily fee (*b*) for the excess period extending from the end of that fixed period up to, and inclusive of, the date of the complete execution of the Commission, must be paid before the Commissioner's report or other return to the Commission is used.

Rs. A. P.
Article 4.—Every Process of Attachment of property by actual seizure—

(c) in respect of the Warrant of Attachment ... 2 0 0

(d) in respect of each man necessary to effect the Attachment, and also to ensure safe custody, when such man is to be left actually in possession, *per diem* ... 0 6 0

NOTE.—The daily fee (*d*) is to be paid at the time of obtaining the process, for so many days as the Court shall order, not being ordinarily less than 15 days and the number of days required for the coming and going of the officer; but where the officer is not to be left in possession, then the daily fee (*d*) is to be paid only for the time to be occupied by the officer in going, effecting the attachment, and returning. When the Inventory filed by the judgment-creditor shows the property to be of such small value, that the expense of keeping it in custody may probably exceed its value, the Court shall fix the fee with reference to the provisions of Section 269 of the Code of Civil Procedure of 1877.

Rs. A. P.
Article 5.—Every Process in Execution of a Decree by the Arrest of the person ... 10 0 0

Article 6.—Every order for the sale of property, other than an order for the sale of distrained property under Act VIII of 1869 of the Bengal Council—

(e) in respect of the order of sale ... 2 0 0

(f) by way of Poundage on the gross amount realized by the sale up to Rs. 1,000 ... 2 per cent.
together with a further fee on all excess of gross proceeds beyond Rs. 1,000 of ... 1 per cent.

NOTE.—The portion (*e*) of this fee must be paid when the process is obtained, and the poundage (*f*) must be paid at the time of making the application for payment of the proceeds of sale out of Court, as hereinafter provided.

Rs. A. P.
Article 7.—Every rule, notice, proclamation, injunction, or other order not specified, in any preceding Article of this part ... 2 0 0

PART III.

Table of Fees for suits other than the suits hereinafter specified in Part IV, applicable to Courts of Munsifs and of Small Causes, and to Revenue Courts in cases to which Part II. does not apply—

Rs. A. P.
Article 1.—Summons to defendants, notice of appeal, or other notice to respondents, when the defendants or respondents are not more than four in number, one fee ... 1 0 0

When such defendants or respondents are more than four in number, then the fee above-mentioned for the first four, and an additional fee of four annas for every such person in excess of four.

Rs. A. P.

Article 2.—Summons to witnesses, when the witnesses are not more than four in number, one fee ... 1 0 0

When the witnesses are more than four in number, then the fee above-mentioned for the first four, and an additional fee of four annas for every such witness in excess of four.

Article 3.—Every Commission to make a local investigation or to take evidence or for any other purpose—

(a) in respect of the Commission ... 1 0 0

(b) in respect of the remuneration of the Commissioner, or person who is to execute the Commission, if such person be an officer of Government specially appointed for the purpose, *per diem* ... 3 0 0

NOTE.—A sum sufficient to cover the daily fee (b) for such period as may be fixed by the Court for the purpose of executing the Commission must be paid in addition to the fee (a) at the time when the Commission is issued; and, if the Commission is not completely executed within the period so fixed, a further sum, sufficient to cover the daily fee (b) for the excess period extending from the end of that fixed period up to, and inclusive of, the date of the complete execution of the Commission, must be paid before the Commissioner's report or other return to the Commission is used.

Rs. A. P.

Article 4.—Every Process of Attachment of property by actual seizure—

(c) in respect of the Warrant of Attachment, ... 1 0 0

(d) in respect of each man necessary to effect the Attachment and also to ensure safe custody, when such man is to be left actually in possession, *per diem* ... 0 4 0

NOTE.—The daily fee (d) is to be paid at the time of obtaining the process, for so many days as the Court shall order, not being ordinarily less than 15 days, and the number of days required for the coming and going of the officer: but where the officer is not to be left in possession, then the daily fee is to be paid only for the time to be occupied by the officer going, in effecting the attachment, and returning. When the Inventory filed by the judgment creditor shows the property to be of such small value that the expense of keeping it in custody may probably exceed the value, the Court shall fix the daily fee with reference to the provisions of Section 269 of the Code of Civil Procedure of 1877.

Rs. A. P.

Article 5.—Every Process in Execution of a Decree by the Arrest of the person ... 4 0 0

Article 6.—Every order for the Sale of property, other than an order for the sale of distrained property under Act VIII. (B. C.) of 1869—

(e) in respect of the Order of Sale ... 1 0 0

(f) by way of Pounding on the gross amount realized by the sale up to Rs. 1,000 ... 2 per cent.
together with a further fee on all excess of gross proceeds beyond Rs. 1,000 of ... 1 per cent.

NOTE.—The portion (*e*) of this fee must be paid when the process is obtained, and the poundage (*f*) at the time of making the application for payment of the proceeds of sale out of Court, as hereinafter provided.

	Rs.	A.	P.
<i>Article 7.</i> —Every rule, notice, proclamation, injunction, or other order not specified in any preceding Article of this part	1	0 0

PART IV.

Table of fees in the Courts of Moonsifs, in Small Cause Courts, and in the Revenue Courts when the suit is for debt, or damage to personal property, or for rent and the claim does not exceed Rs. 50—

	Rs.	A.	P.
<i>Article 1.</i> —Summons to defendants, when the defendants are not more than two in number, <i>one fee</i> ...	0	8	0
When the defendants are more than two in number, the fee above-mentioned for the first, two, and an additional fee of four annas for every such defendant in excess of two.			
<i>Article 2.</i> —Summons to witnesses, in respect of each witness	0	4	0
<i>Article 3.</i> —Every Commission to make a local investigation or to take evidence, or for any other purpose—			
(<i>a</i>) in respect of the Commission ...	1	0	0
(<i>b</i>) in respect of the remuneration of the Commissioner, or person who is to execute the Commission, if such person be an officer of Government specially appointed for the purpose, <i>per diem</i> ...	3	0	0

NOTE.—A sum sufficient to cover the daily fee (*b*) for such period as may be fixed by the Court for the purpose of executing the Commission must be paid in addition to the fee (*a*) at the time when the Commission is issued; and, if the Commission is not completely executed within the period so fixed, a further sum, sufficient to cover the daily fee (*b*) for the excess period extending from the end of that fixed period up to, and inclusive of, the date of the complete execution of the Commission, must be paid before the Commissioner's report or other return to the Commission is used.

	Rs.	A.	P.
<i>Article 4.</i> —Every Process of Attachment of property by actual seizure—			
(<i>c</i>) in respect of the Warrant of Attachment ...	0	8	0
(<i>d</i>) in respect of each man necessary to effect the Attachment, and also to ensure safe custody, when such man is to be left actually in possession, <i>per diem</i> ...	0	4	0

NOTE.—The daily fee (*d*) is to be paid at the time of obtaining the process, for so many days as the Court shall order, not being ordinarily less than 15 days, and the number of days required for the coming and going of the officer; but where the officer is not to be left in possession,

then the daily fee is to be paid only for the time to be occupied by the officer in going, effecting the attachment, and returning. When the Inventory filed by the judgment-creditor shows the property to be of such small value that the expense of keeping it in custody may probably exceed the value, the Court shall fix the daily fee with reference to the provisions of Section 269 of the Code of Civil Procedure of 1877.

Rs. A. P.

Article 5.—Every Process in Execution of a Decree by Arrest of the person ... 1 0 0

Article 6.—Every Order for the sale of property other than an order for the sale of distrained property under Act VIII (B. C.) of 1869—

(e) in respect of the Order of Sale ... 1 0 0
 (f) by way of Poundage on the gross amount realized by the sale up to Rs. 1,000 ... 2 per cent.
 together with a further fee on all excess of gross proceeds beyond Rs. 1,000 of ... 1 per cent.

NOTE.—The portion (e) of this fee must be paid when the process is obtained, and the Poundage (f) at the time of making the application for payment of the proceeds of sale out of Court, as hereinafter provided.

Rs. A. P.

Article 7.—Every rule, notice, proclamation, injunction, or other order not specified in any preceding article of this part ... 1 0 0

- (2) Notwithstanding Rule (1), no fee shall be chargeable for serving and executing any process, such as a notice, rule, summons, or warrant of arrest, which may be issued by any Court of its own motion, solely for the purpose of taking cognizance of, and punishing any act done, or words spoken, in contempt of its authority.
- (3) No process which comes within the operation of Rule (1) shall be drawn up for service or execution, except upon an application made to the Court for that purpose in writing, on a document bearing upon its face stamps not less in amount than the fee which by Rule (1) is directed to be charged for serving and executing the process so sought to be drawn up. This application may, however, at the option of the party making it, be included in the petition by which he moves the Court to order the process to issue; but in that case the petition must bear the requisite stamps for the process fee, in addition to such stamps, if any, as are needed for its own validity: and, in either case, the filing of the application, thus duly stamped, shall constitute payment of the fee chargeable for the process.
- (4) In cases which are covered by the note to article 3 of Part I, and the note to articles 3 and 4 of Parts I, III, and IV of the

Table of Fees in Rule (1), the additional fee which may become payable after the process has been actually issued shall be paid by filing a written requisition to the Court to receive the fee, which document shall bear on the face of it stamps not less in amount than the additional fee, together with a memorandum of the purpose for which it is paid.

- (5) The proceeds of a sale effected in execution of any decree are to be paid out of Court only on an application made for that purpose in writing, and the additional fee (f), article 6, Parts II, III, and IV, must be paid by stamps affixed to, or impressed upon, the first of such applications, whether it be or be not made by the person who obtained the order for sale, or whether it does or does not extend to the whole of the proceeds. No fee will be chargeable upon any such application subsequent to the first.

N. B.—The fees paid in pursuance of these rules must in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them.

- (6) * In districts where during a portion of the year travelling, except by boat, is impracticable, boat-hire may, when it has to be incurred, be charged in addition to the fees payable under Rule (1) above. The rates at which such boat-hire is to be charged shall be the same as those fixed with regard to the criminal processes under rule VII of the rules under clause 2, section 20 Act VII of 1870,† and shall be sufficient only to cover, on the whole, the actual cost of hiring boats, or of such boat establishment as it may be necessary to maintain for the purpose of serving processes of these classes.

- (7)‡ When, in order to the service of any process, the peon has to cross a ferry, then the amount, if any, legally exigible as toll shall be levied in cash before the delivery of the process to the peon from the person at whose instance the process is issued before.

2. [*Instructions and Explanations supplementary to the preceding Rules.*—(a) [C. O. No. 22 of 8th June 1878.]—A separate

* Published in the *Calcutta* and *Assam Gazettes* of the 26th November and 20th December 1879 respectively.

† Vide *Code of Criminal Rules and Orders*, Chapter V, p. 82.

‡ Published in the *Calcutta* and *Assam Gazettes* of the 26th November and 20th December 1879 respectively.

charge is to be made for each copy to be served of the rules, notices, proclamations, injunctions, &c., specified in article 5, Part I, and article 7, Parts II, III, and IV of Rule (1) except in the case of rules, notices, &c., addressed to parties to the suit. When they are addressed to such parties, the charge should be made in accordance with the principle applied in the case of summons to defendants in article 1, Parts I, II, III, and IV respectively.

(b) [*C. O. No. 40 of 22nd December 1879.*].—Where in any case more than one copy of a citation issued under section 250 of Act X of 1865, or of a notice issued under section 3 of Act XXVII of 1860, has to be affixed in Court-houses or offices which are situated at the same station, one fee only shall be charged. Where such Court-houses or offices are situated at different stations, a separate fee shall be charged in respect of the notices affixed in the Courts or offices at each station.

(c) [*C. O. No. 27 of 12th July 1879.*].—In order to determine the charge to be levied under clause (b), article 3, Parts II, III, and IV, it is necessary, when fixing the period for the executions of a commission for making a local investigation to allow for the time occupied by the Ameen in travelling to the spot and in preparing his Report. A charge should be made for the time occupied in preparing the Report, if it cannot be done at once, but care should be taken that the charge on this account is kept down to what is strictly necessary; and in calculating the fees payable, the actual distance the Ameen has to travel should be considered, and it should not be assumed, except by the Courts at the Sudder Station, that he is at the Court issuing the commission, when in fact he may not be so. If it be doubtful where the Ameen is, he may be assumed to be at the Sudder Station.

(d) [*C. O. No. 18 of 26th April 1879.*].—Notices served on creditors (other than the decree-holder), mentioned in an application for insolvency under clause (f), section 345 of the Code of Civil Procedure, shall be charged under article 7 separately for each creditor served.

(e) [*C. O. No. 25 of 1st July 1878.*].—Although no limit of time is prescribed for applications for refund of process fees paid under article 4 (d), Parts II, III and IV, yet, as these can be granted only on view of the stamps originally filed, which are liable to

be destroyed with the process record at the end of a year, parties should be warned that there is a probability, if delay is allowed to occur, that it may become impossible to obtain a refund of the money due.

[(L) G. L. No. 12 of 11th June 1877.]—The Munsif or other Judge shall give to the person entitled to a refund of stamp value a certificate payable out of the cash in the hands of the Court, and debitable in the Treasury accounts, to Stamp Revenue.

RULES MADE AND FORMS PRESCRIBED UNDER THE AUTHORITY OF
ACTS OTHER THAN THE CODE OF CRIMINAL PROCEDURE.

3. [Rules framed by the High Court of Judicature at Fort William in Bengal, in accordance with clause 2, section 20, of the Court Fees' Act, 1870, declaring the fees chargeable for service and execution of the several processes in the Courts of Magistrates in Bengal and Assam—C. Os. No. 13, 2nd April and No. 35 of 14th November 1879.]

I.—The fees hereinafter mentioned shall be chargeable for serving and executing the processes to which the fees are respectively attached, viz :—

Rs. A. P.

(1) Warrant of arrest—

For the warrant in respect of each person named therein	1 0 0
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(2) Summons—

For the summons in respect of one person, or of the first two persons residing in the same place	0 8 0
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In respect of every additional person named therein	0 4 0
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(3) Proclamation for absconding party under section 174 of the Code of Criminal Procedure—

For the proclamation	2 0 0
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(4) Proclamation for witness not attending (section 353)—

For the proclamation	0 8 0
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(5) Warrant of Attachment—

For the warrant	1 0 0
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Where it is necessary to place officers in charge of property attached, for each officer so employed, per diem	0 4 0
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* Published at page 304 of the Calcutta Gazette of the 2nd April 1879 and at page 596 of the Assam Gazette of the 18th October 1879,

- (6) In cases where an application is made by a complainant for the recovery of costs awarded under section 31, Act VII of 1870, or of compensation granted under section 308, Code of Criminal Procedure, or where a defendant applies for the recovery of compensation awarded to him under section 209 of the Code of Criminal Procedure—

For the warrant for the levy of the fine or compensation	...	...	...	0	8	0
(7) Written order—						
For the order	...	...	...	1	0	0
(8) Injunction—						
For the injunction	...	...	...	1	0	0
(9) Notice—						
For the notice	...	...	...	1	0	0

II.—Nothing herein contained shall be deemed to authorize the levying of any fee for any summons to attend as a juror or assessor in a Court of Session, and no fee shall be chargeable on any such summons.

III.—No fee shall be chargeable in advance on any process of a Criminal Court in any case where the prosecution is on the part of Government, but it shall be competent to any Magistrate in such case, if the accused is convicted, to order that such fees shall be paid by the accused, or any of them, in like manner as if such fees had been paid by the prosecutor in the first instance.

* * * * *

4. Notification No. 47, dated, January 6th 1871, I. G. Part I, p. 4.

Bonds and other instruments executed by salaried officers of Government to secure the due performance of their duties are exempted from the fees chargeable under the Court Fees Act 1870, Schedule II No. 6.

5. Notification No. 2004, dated, 14th July 1871, I. G. Part I, p. 525.

Remits the fees chargeable under Schedule 1, article 11 of Court Fees Act 1870, in respect of probate of wills or letters of administration, in so far as such wills or letters of administration relate to property which a deceased person was possessed of or entitled to, not beneficially but as a trustee for any other person or persons. Provided that this remission shall not extend to cases in which a trustee has the power of appointing or otherwise conferring a beneficial interest in the trust property.

6. *Notification No. 2520, dated, April 5th 1872, I. G. Part I, p. 380.*

Exempt from fees chargeable under the Court Fees' Act, copies of final sentences or orders passed by Criminal Courts, which parties desirous of appealing from such sentences or orders are required by section 416 (now 419) Criminal Procedure Code to file with their petition of appeal provided that the party who is desirous of appealing is in confinement under the operation of the sentence or order at the time that he applies for a copy of the same.

This exemption will also extend under the same circumstances, to copies of the judgment or reasons for passing or making such sentence or order as above.

Note.—If a person desirous of appealing is not in jail he must provide the Court Fee Stamp (8 annas for every 360 words) as well as the copying fees.

7. *Notification No. 2025, dated, August 15th 1872, I. G. Part I, p. 782.*

Local Government may sanction refunds of stamp duty when the estimate of the assets of an estate is shewn to have exceeded the amount on which the Court Fees' Act says that duty shall be paid, viz. the actual value of the property in respect of which the Letters of Administration are granted.

8. *Notification No. 2504, dated, April 18th 1873, I. G. Part I, p. 379.*

In cases in which stamp duty has been paid on Probates or Letters of Administration in respect of the gross assets of the estates of deceased persons, refunds of the duty may be made by the Chief Executive Revenue Authority under the Local Government in each Presidency or Province, if he thinks right, in respect of such portion of the assets as is actually applied in discharging the debts of the deceased.

9. *Notification No. 3816, dated, December 19th 1873, I. G. Part I, p. 709.*

Remits the fees chargeable on applications presented to a Collector for refund of the amount paid to Government for stamped paper, which has become spoiled or unfit for use, or is no longer required for use, and no application for renewal of stamp paper which has become spoiled or unfit for use.

10. *Order of the Government of India, No. 831, dated, January 31st 1874.*

Every Court and officer before whom a document requiring a stamp under the Court Fees' Act is produced, is bound to see that the figure-head of the stamp is punched out and destroyed before taking action on the document.

11. *Notification No. 1070, dated, 12th February 1874,
I. G. Part I, p. 110.*

Court Fee leviable on application for the deposit of rent not exceeding Rs. 15.

If the amount deposited exceeds.		But does not exceed		Proper Fee.	
Rs.	As.	Rs.	As.	Rs.	As.
0	0	2	8	0	1.
2	8	5	0	0	2.
5	0	10	0	0	4.
10	0	15	0	0	6

12. *Notification No. 2623, dated, April 24th 1874,
I. G. Part I, p. 264.*

(a) Whenever a grant of probate or letters of administration shall have been made in respect of any property forming part of an estate, the amount of fees then actually paid under the Court Fees' Act, shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

(b) Whenever a grant of probate or letters of administration shall have been made in respect of any property belonging to an estate, no fees shall be chargeable under the said Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

13. *Notification No. 2768, dated, April 30th 1874,
I. G. Part I, p. 273.*

When a plaint disclosing a reasonable case on the merits, is presented to any Civil or Revenue Court in such a form that the presiding judge or officer without summoning the defendant rejects it, not for any substantial defect, but on account of an entirely

* Figure-head of Court Fee Stamps to be punched and the piece to be destroyed before any action is taken upon the documents to which the stamps are attached. (H. C. C. O. No. 5, dated 24-2-74).

technical error in form only, and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the District in which the Court is situated, together with a certificate from the judge or officer who rejected the plaint that it was rejected under the circumstances above described; and that the value of the stamp should, in his opinion, be refunded.

14. • Notification No. 4193 dated, July 3rd 1874,

I. G. Part I, p. 309.

Remits the fees chargeable under the Court Fees' Act 1870, on—

A. Copies of village settlement records furnished to landholders and cultivators during the currency or at the termination of settlement operations.

B. List of fields extracted from village settlement records for the purpose of being filed with petitions of plaint in settlement Courts.

2. Nothing in this notification applies to—

(a) Copies of Judicial Proceedings.

(b) Copies of Village settlement records (other than lists of fields extracted as aforesaid) which may be filed in any Court or Office.

15. Resolution No. 5790, dated, September 26th 1874.

Certificates granted under Act XXVII of 1860, entitling the holder to draw interest of Government Securities, should bear stamp duty with reference to the value of the securities and not with reference to the amount of interest to be drawn.

16. • Notification No. 855, dated, February 5th 1875,

I. G. Part I, p. 62.

Whenever upon payment of the full fee chargeable under the Court Fees' Act, a certificate of administration has been granted under Act XL of 1858 or Act XX of 1864 and a fresh certificate is for any reason subsequently granted in respect of the same estate, no fees shall be chargeable upon the fresh certificate so granted.

17. • Notification No. 2041, dated, July 20th 1877,

I. G. Part I, p. 382.

The following are exempted from Court Fees:—

(a) Copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other

person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of Government before any Criminal Court.

(b) Copies of all documents which any such advocate, pleader or other person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceeding.

(c) Copies of judgments in and depositions required by officers of the Police Department for conducting appeals on behalf of Government before any Criminal Court.

18. *Notification No 2127, dated, July 27th 1877, I. G. Part I, p. 409.*

The fee chargeable under the Court Fees' Act on plaints filed in suits for possession of immoveable property under section 9 of the Specific Relief Act No. I of 1877, shall be one-half of the amount prescribed in the scale of fees for plaints mentioned in Schedule I, article I of Act VII of 1870.

19. *Notification No. 195, dated, April 18th 1879,
I. G. Part I, p. 307.*

Reduces to 1 anna the fee chargeable under the Court Fees' Act on every application for the return of exhibits filed with petitions presented to a Collector in accordance with the provisions of sections 17 and 19 of the Bengal License Act, 1878.

20. *(Fee for administering oaths in Affidavits*

*Notification, High Court, dated 20th September 1878, and C. O.
No. 32 of 29th September 1878.)*

(a) It is hereby notified that, with the sanction of His Excellency the Governor-General in Council the following charge has been introduced into all Criminal Courts subject to the Appellate Jurisdiction of the High Court, and that it will be levied from and after this date, viz —

For administering oath of the declarant in the case of any affidavit except —

(a) affidavits made by process-servers regarding
the manner of service of processes;

(b) affidavits made by any public officer in virtue of
his office

... One rupee.

(b) The above fee shall be paid by means of a Court Fee Stamp of not less value than the amount above prescribed, and will, therefore, be credited to Government. These fees should be shewn separately in the daily register of Court Fees realised, in order that it may be ascertained whether the receipts in any district are sufficient to justify the appointment of a special officer to administer oaths on affidavits.

21. Notification No. 3967, dated, November 2nd 1879,
I. G. Part I, p. 74.*

Certain orders issued by the Civil Courts under sec. 244 C. C. P. have been declared to be "decrees" by sec. 2 of Act XII of 1879.

The Court Fee payable on appeals from such orders issued under sec. 244 C. C. P. shall be limited to the amount chargeable under Art. 11 Sch. II of the Court Fees' Act.

22. Notification No. 1431, dated, March 27th 1880,*
I. G. Part I, p. 223.

Remits the fees, chargeable under the Court Fees' Act on Security bond for keeping of the peace by, or good behaviour of, persons other than the executants.

23. Notification No. 1361, dated, June 24th 1881,
I. G. Part I, p. 264.

Remits the Court Fees payable under clauses 6, 7 and 9 of Schedule I, of the Act on copies furnished by the Civil and Criminal Courts for the private use of persons applying for them.

This notification shall not be deemed to exempt copies furnished thereunder from the payment of the fees chargeable on such copies when filed, exhibited or recorded in a Court of Justice or received by a public officer.

24. Notification No. 849, dated, February 16th 1883,
I. G. Part I, p. 122.

Remits in the whole of British India the fees payable under clause (a), para. 4, and clause (b), para. 2 of Article 1, Schedule II, annexed to the Court Fees' Act, on applications for orders for the payment of deposits in cases in which the deposit does not exceed

*This notification does not apply to appeals from orders rejecting plaints, or to appeals in certain miscellaneous cases, such as certificate and probate cases (H. C. C. O. No. 6, dated 10th January 1880.)

Rs. 25 in amount : provided that the application is made within three months of the date on which the deposit first became payable to the party making the application.

25. *Notification No. 1143, dated, November 2nd 1883,
I. G. Part I, p. 439.*

Remits the fees leviable under Act VII of 1870 on the following documents, viz :—

(1) Copy of the charge given to the accused under section 210 of the Code of Criminal Procedure.

(2) Copy of the evidence of witnesses given to the accused under section 219 of the Code.

(3) Copy of the Judgment in any case other than a summon's case, or of the heads of the charge to be Jury, given to the accused under section 371 of the Code.

(4) Copy of an order of maintenance given under section 490 of the Code.

(5) Copy of the Judge's charge to Jury, of any order or deposition or other part of the record furnished free of cost to a person affected by a Judgment or order under section 548 of the Code.

JUDICIAL DEPARTMENT.

OOTACAMUND, AUGUST 1, 1873.

The following Rules made by the High Court of Judicature at Madras, pursuant to the Court Fees Act, Section 20, confirmed by the Government or of Fort St. George in Council and sanctioned by the Governor General in Council, are hereby notified for General information :—

1. On and after the 16th August 1873, all payments for the service of processes issued by the High Court in its ordinary appellate jurisdiction, and by the Civil and Revenue Courts subordinate to the High Court, and by Criminal Courts, in the case of offences other than offences for which the Police may arrest without warrant, shall be collected according to the rates fixed in the annexed Schedules A and B.

2. In addition to the fees payable under Schedules A and B, where ferry charges have to be incurred, or where special expedition is required in the service of any process, the party at whose instance the process is issued shall pay a further fee equivalent to the actual cost of the ferry charge, or the actual cost of travelling by rail, boat, cart, &c., as the case may be.

3. Where any process has to be served in another district than that in which it is issued, no extra charge shall be made for postage.

4. Where an Amin is employed as process-server in the Court of a District Munsiff, or in a Revenue Court subordinate to that of Collector, his salary shall be 12 Rupees per mensem. In every other Court his salary shall be 14 Rupees per mensem. Provided that in exceptional cases, and with the previous sanction of the High Court, batta may be given in addition to the salary so fixed.

5. When a Peon is employed as process-server in the Court of a District Munsiff, or in any Revenue Court subordinate to that of a Collector, or in any Criminal Court, his salary shall be 6 Rupees per mensem. In every other Court his salary shall be 7 Rupees per mensem. Provided that in exceptional cases, and with the previous sanction of the High Court, batta may be given in addition to the salary so fixed.

6. The receipts on account of processes must be sufficient to defray the cost of the Process-Service Establishments, and the postage on account of correspondence relating to processes.

SCHEDULE A.—(CIVIL AND REVENUE COURTS.)

No.		In a District Munsiff's or Subordinate Re- venue Court.			In every other Civil or Revenue Court.		
		Rs.	A.	P.	Rs.	A.	P.
1	Summons or Notice to defendant or respondent	0	8	0	1	0	0
2	And for every additional defendant or respondent if applied for at the same time, and if defendant resides in the same neighbourhood	0	4	0	0	8	0
3	Summons to a witness	0	8	0	1	0	0
4	And for every additional witness if applied* for at the same time, and if witness resides in the same neighbourhood	0	4	0	0	8	0
5	Warrant of arrest	1	0	0	2	0	0
	Proclamation of attachment or the process for sale	0	8	0	1	0	0
	Warrant of attachment of moveable or immoveable property according to the value of the suit, if applied for before judgment, or the amount decreed if applied for in execution of decree—						
	If the value or amount does not exceed	0	8	0	...	...	...
	Exceeds 50 Rupees, but does not exceed	1	0	0	2	0	0
	100 "	2	0	0	3	0	0
	500 "	3	0	0	4	0	0
	1,000 "	...	...	...	5	0	0
	5,000 "	...	...	...	6	0	0
	10,000 "	...	...	...	7	0	0
6	Warrant of delivery of possession of property (moveable or immoveable)—	...	...	...	...	...	...

SCHEDULE A.—(CIVIL AND REVENUE COURTS)—Continued.

No.	In a District Munsiff's or Subordinate Revenue Court.	In every other Civil or Revenue Court.
	The fee for attachment of said property.	
	Rs. A. P.	Rs. A. P.
	0 8 0	1 0 0
	1 0 0	2 0 0
	0 4 0	0 8 0
	0 8 0	1 0 0
	0 8 0	1 0 0
	1 0 0	2 0 0
	0 8 0	1 0 0
	0 4 0	...
7	Warrant of sale of moveable property— If conducted at the Court-house If not conducted at the Court-house	...
8	Warrant of sale of immoveable property— If conducted at the Court-house If not conducted at the Court-house	...
9	Injunction, Order, or Notice not otherwise provided for	...
10	Any process in execution of a decree of a Village Munsiff	...

- N. B.*—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.
- (2.) When it is found necessary to employ more than one Amin or Peon (as, for instance, where property is situated in different places), double rates are to be charged.
- (3.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the Officer of the Court.
- (4.) If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.
- (5.) Under Section 8, Act XXIII of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas per diem. A week's batta is to be deposited in advance and renewed at like intervals.

SCHEDULE B.—(CRIMINAL COURTS.)

	Rs.	As.	P.
1. Summons to defendant	0	8	0
And for every additional defendant, if applied for at the same time, and if resident in the same neighbourhood	0	4	0
2. Summons to a witness	0	8	0
And for every additional witness, if applied for at the same time, and if witness resides in the same neighbourhood	0	4	0
3. Warrant of arrest	0	12	0
4. Notice, Order, Injunction, or Warrant not otherwise provided for	0	8	0

N. B.—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house. . .

- (2.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the Officer of the Court.

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